



## BOARD OF SUPERVISORS AGENDA ITEM REPORT

### CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 10/6/2020

\* = Mandatory, information must be provided

or Procurement Director Award ☐

**\*Contractor/Vendor Name/Grantor (DBA):**

Fourth Avenue Foundation, Inc.

**\*Project Title/Description:**

COVID-19 Back to Business Initiative

**\*Purpose:**

Pima County will work with Fourth Avenue Foundation, Inc. to subaward grant money to multiple businesses. Business associations like Fourth Avenue Foundation, Inc. are subject matter experts in what their business participants most need to reopen successfully and safely. By subawarding to one association with a wide reach, the County efficiently extends its span of influence to enhance economic welfare and public health. The evaluation and training components that are the last deliverables (see below) will help the County improve the process with the next business association it partners with to promote safe and successful business reopenings.

**\*Procurement Method:**

This Subrecipient Agreement is a non-Procurement contract and not subject to Procurement rules.

**\*Program Goals/Predicted Outcomes:**

Design and implement a program that awards grants to help small businesses in the North Fourth Avenue business area; Design and implement an increased sanitation and safety infrastructure and marketing presence in the North Fourth Avenue business area in order to promote and facilitate public health and safety as well as boost consumer confidence.

**\*Public Benefit:**

Help downtown businesses open up again safely, strategically, and successfully.

**\*Metrics Available to Measure Performance:**

Written grant program and infrastructure improvement design report; Program and Implementation Plans; monthly written assessment of implementation; Training Component Plan.

**\*Retroactive:**

Yes. The CRF federal financial assistance (authorized by the CARES Act) is a rare case of allowing local governments to receive reimbursement for costs retroactive March 1, 2020. U.S. Treasury designed CRF funding this way to help local governments respond to unique first- and second-order effects of the pandemic; CRF direct recipients are allowed to extend retroactive funding to their sub-grantees.

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JLW

TO: COB 10-1-2020  
Vers.: 1  
pgs.: 18

**Contract / Award Information**Document Type: CT Department Code: GMI Contract Number (i.e., 15-123): 21\*0187Commencement Date: 3/1/2020 Termination Date: 12/30/2020 Prior Contract Number (Synergen/CMS): \_\_\_\_\_☒ Expense Amount: \$\* 450,000 ☐ Revenue Amount: \$ \_\_\_\_\_**\*Funding Source(s) required:** U.S. Department of Treasury, Coronavirus Relief FundFunding from General Fund? ☐ Yes ☒ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_Contract is fully or partially funded with Federal Funds? ☒ Yes ☐ No**If Yes, is the Contract to a vendor or subrecipient?** subrecipientWere insurance or indemnity clauses modified? ☐ Yes ☒ No*If Yes, attach Risk's approval.*Vendor is using a Social Security Number? ☐ Yes ☒ No*If Yes, attach the required form per Administrative Procedure 22-10.***Amendment / Revised Award Information**

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

Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_

Commencement Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_

Prior Contract No. (Synergen/CMS): \_\_\_\_\_

☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ \_\_\_\_\_Is there revenue included? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_**\*Funding Source(s) required:**Funding from General Fund? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e., 15-123): \_\_\_\_\_

Commencement Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_

☐ Match Amount: \$ \_\_\_\_\_ ☐ Revenue Amount: \$ \_\_\_\_\_**\*All Funding Source(s) required:****\*Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_**\*Match funding from other sources?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_**\*Funding Source:** \_\_\_\_\_**\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** \_\_\_\_\_Contact: Regina Kelly (Alicia Montoya extension 44004) Brick 9/30/2020Department: Grants Management & Innovation Telephone: 724-6679

Department Director Signature/Date: \_\_\_\_\_

Deputy County Administrator Signature/Date: Thur 10/1/2020County Administrator Signature/Date: C. R. Delaney 10/1/20*(Required for Board Agenda/Addendum Items)*

**Pima County Department of Grants Management & Innovation**

**Project: COVID-19 Back 2 Business Initiative**

**Contractor: Fourth Avenue Foundation, Inc.**

**Amount: \$ 450,000.00**

**Contract No.: CT-GMI-21\*0187**

**Funding: U.S. Department of Treasury, Coronavirus Relief Funds**

|                                  |  |   |                                |  |
|----------------------------------|--|---|--------------------------------|--|
| <b>DUNS No.: 097168213</b>       |  |   |                                |  |
| <b>Research or Development:</b>  |  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                                |  |
| <b>Federal Contract No.: N/A</b> |  |   |                                |  |
| <b>Required Match:</b>           |  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                                | <b>Match Amount: N/A</b>   |
| <b>Indirect Cost Rate:</b>       |  | <input type="checkbox"/> Federal                                    | <input type="checkbox"/> NICRA | <input type="checkbox"/> de minimis <input checked="" type="checkbox"/> None |
| <b>Status of Agency:</b>         |  | <input checked="" type="checkbox"/> Subrecipient                    |                                | <input type="checkbox"/> Contractor  |

| CFDA   | Program Description               | National Funding             | Pima County Award    |
|--------|-----------------------------------|------------------------------|----------------------|
| 21.019 | CARES Act Coronavirus Relief Fund | FY19<br>\$150,000,000,000.00 | FY19 \$87,107,597.40 |

**FEDERAL FINANCIAL ASSISTANCE SUBWARD**

**1. Parties and Background.**

1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Fourth Avenue Foundation, Inc. ("Subrecipient").

1.2. Authority.

1.2.1. On March 19, 2020, the Board of Supervisors declared a state of emergency due to the spread of COVID-19 in Pima County. Under Pima County Code Section 11.12.060, that declaration allows the procurement director to waive normal procurement practices upon a declaration of an emergency by the Board of Supervisors in order to do all things necessary to meet the County's emergency needs.

- 1.2.2. 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.
- 1.2.3. County received Coronavirus Relief Fund ("CRF"), 42 U.S.C. § 801, funding in the amount of \$87,107,597.40 from the U.S. Department of the Treasury ("Treasury") as part of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, signed by President Trump on March 27, 2020.
- 1.2.4. Treasury issued CRF Guidance for State, Territorial, Local, and Tribal Governments (the "Guidance") and CRF Frequently Asked Questions ("FAQs") that were both updated on September 2, 2020, that set forth Treasury's interpretation of the CRF's provisions for the use of funds.

## 2. **Term.**

- 2.1 Term. The term of this Agreement commences on March 1, 2020 and will terminate on December 30, 2020 ("Term"). If the commencement date of the Term is before the signature date of the last party to execute this Contract, the parties will, for all purposes, deem the Contract to have been in effect as of the commencement date.

## 3. **Scope of Services.**

### 3.1. Subrecipient will:

- 3.1.1. Provide the goods and services described in the attached **Exhibit A**.
- 3.1.2. Employ suitably trained and skilled personnel to perform all services under the Agreement.
- 3.1.3. Perform its duties in a humane and respectful manner and in accordance with any applicable professional standards.
- 3.1.4. Unless otherwise provided for herein, the personnel delivering Agreement services will:
  - 3.1.4.1. Be employees or volunteers of the Subrecipient;
  - 3.1.4.2. Satisfy any qualifications set forth in this Agreement; and
  - 3.1.4.3. Be covered by personnel policies and practices of Subrecipient.
- 3.1.5. Obtain and maintain all required licenses, permits and authority required for performance under this Agreement.
- 3.1.6. Maintain an accounting manual that describes its financial procedures in sufficient detail to ensure that its financial practices are easily understood.
- 3.1.7. Undertake the same obligations to County, as County does to Treasury. Subrecipient will hold County harmless against any injury that County may

suffer with respect to Treasury due to any failure on the part of Subrecipient to fulfill its obligations.

- 3.2. 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.

#### **4. Monitoring and Evaluation.**

- 4.1. County will monitor Subrecipient's 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 uses the funding as allowed by the CRF.
  - 4.1.1. Making adequate and acceptable progress in the provision of services;
  - 4.1.2. Maintaining adequate and acceptable systems to document services and expenditures; and
  - 4.1.3. Using the funds provided pursuant to this Agreement effectively and efficiently to accomplish the purposes for which funds were made available.
- 4.2. Subrecipient must cooperate in the County's monitoring and evaluation process and any monitoring or oversight by Treasury's Inspector General.
- 4.3. Subrecipient must assist County in providing reports and documentation related to Subrecipient's performance and, where applicable, the impact of the CRF-funded activities on the community.
- 4.4. If County finds that Subrecipient's performance is inconsistent with the CRF and the Uniform Guidance (2 C.F.R. Part 200); 2 C.F.R. §§200.303, 200.330-200.332 and Subpart F—Audit Requirements, 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 notices, this Agreement may be suspended or terminated.
- 4.5. 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 the Treasury 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 compliance with this Agreement.

#### **5. Compensation and Payment.**

- 5.1. Maximum Payment Amount. County's total payments made to Subrecipient under this Agreement, including any sales taxes, may not exceed \$450,000.00 (the "NTE Amount"). The NTE Amount can only be changed by a formal written amendment executed by the Parties. Subrecipient may not provide any services, payment for

which will cause the County's total payments under this Agreement to exceed the NTE Amount; if Subrecipient does so, it is at the Subrecipient's own risk.

- 5.2. Sales Taxes. The payment amounts or rates in **Exhibit B** do not include sales taxes. Subrecipient may invoice County for sales taxes that Subrecipient is required to pay under this Subrecipient. Subrecipient will show sales taxes as a separate line item on invoices.
- 5.3. Timing of Invoices. Subrecipient will invoice County on a monthly basis as set forth in **Exhibit B**. County must receive invoices no more than 30 days after the end of the billing period in which Subrecipient delivered the invoiced products or services to County. County may refuse to pay for any product or service for which Subrecipient does not timely invoice the County. The funds for reimbursement will no longer be available on 12/30/2020, if costs have not been submitted for the period ending 12/30/2020 within 7 days (1/7/2021) of the end of the period, they will not be reimbursed and Subrecipient will absorb the risk.
- 5.4. Content of Invoices. Subrecipient will include detailed documentation in support of its invoices and assign each amount billed to an appropriate line item. Each monthly request for reimbursement must:
  - 5.4.1. Have a unique invoice number
  - 5.4.2. Reference this Agreement number.
  - 5.4.3. Be approved and signed by the person(s) that prepared the request and an authorized manager, supervisor or executive of the Subrecipient to insure proper internal financial controls.
  - 5.4.4. Be for costs as identified in **Exhibit B** of this Agreement.
  - 5.4.5. Be accompanied by documentation which must include, but is not limited to:
    - 5.4.5.1. A summary report of monthly expenditures by expense categories as shown in the approved budget in **Exhibit B** of this Agreement.
    - 5.4.5.2. Copies of paid invoices and receipts or cancelled checks (front and back) to support all purchases of goods or services.
    - 5.4.5.3. Detailed travel reports to support all travel expenses if reimbursement is authorized for travel,
    - 5.4.5.4. Any other documentation request by County
    - 5.4.5.5. Be accompanied by signed copy of the Financial Status Report and Request for Funds.
- 5.5. County may, at its sole discretion:

- 5.5.1. Determine the acceptability and progress of work performed and determine the resulting entitlement to payment of each request for reimbursement.
    - 5.5.2. Liquidate funds available under this Agreement for costs incurred by County on behalf of Subrecipient.
    - 5.5.3. Deny full payment for requests for reimbursement that are submitted to County after the date set forth in Paragraph 5.3. County may deduct its processing costs or delay-related damages in connection with a request for payment submitted after that date.
    - 5.5.4. Deny payment for any request for reimbursement received after January 7, 2021.
  - 5.6. Request for final payment for compensation earned and/or eligible costs incurred must be submitted to the County within 7 calendar days after the end of the Agreement term. The request must meet the requirements set forth in paragraph 5.4 above and include a report summarizing Subrecipient's performance during the term of the Agreement.
  - 5.7. No payments will be made to Subrecipient, until all of the following conditions are met:
  - 5.8. Subrecipient has completed and submitted a W-9 Taxpayer Identification Number form;
    - 5.8.1. Subrecipient has registered as a Pima County Vendor at the Pima County Procurement Vendor Portal:  
<http://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=18377>
    - 5.8.2. Adequate and accurate documentation is provided with each request for payment or invoice; and
    - 5.8.3. This Agreement is fully executed.
  - 5.9. Any change that increases or decreases the maximum allocated amount or that changes the Scope of Work in any way will require an Agreement amendment. Such change will not be effective, nor will compensation under the change be provided, until the Agreement amendment is fully executed by both parties.
  - 5.10. Goods and services provided in excess of the budgeted line item or the maximum allocated amount without prior authorization will be at Agency's own risk.
  - 5.11. Invoice Adjustments. County may, at any time question any payment under this Agreement. If County raises a question about the propriety of a past payment, Subrecipient will cooperate with County in reviewing the payment. County may set-off any overpayment against amounts due to Subrecipient under this or any other contract between County and Subrecipient. Subrecipient will promptly pay to County any overpayment that County cannot recover by set-off.
6. **Insurance.** Subrecipient will procure and maintain at its own expense insurance policies (the "**Required Insurance**") satisfying the below requirements (the "**Insurance Requirements**") until all its obligations under this Agreement have been met. The below Insurance Requirements are minimum requirements for this Agreement and in no way

limit Subrecipient's indemnity obligations under this Agreement. The County in no way warrants that the required insurance is sufficient to protect the Subrecipient for liabilities that may arise from or relate to this Agreement. If necessary, Subrecipient may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

6.1. Insurance Coverages and Limits: Subrecipient will procure and maintain, until all its obligations have been discharged, coverage with limits of liability not less than those stated below. Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A-VII, unless otherwise approved by the County.

6.1.1. Commercial General Liability (CGL) – Occurrence Form with limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include coverage for liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations. Any standard coverages excluded from the CGL policy, such as products/completed operations, etc. shall be covered by endorsement or separate policy and documented on the Certificates of Insurance.

6.1.2. Business Automobile Liability – Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Agreement with minimum limits not less than \$1,000,000 Each Accident.

6.1.3. Workers' Compensation and Employers' Liability – Statutory coverage for Workers' Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease.

6.1.4. Professional Liability (E & O) Insurance – This insurance is required for work from professionals whose coverage is excluded from the above CGL policy. The policy limits shall be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The insurance shall cover professional misconduct or negligent acts of anyone performing any services under this Agreement.

6.2. Additional Coverage Requirements:

6.2.1. Claims Made Coverage: If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Agreement, and Subrecipient must maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

6.2.2. Additional Insured Endorsement: The General Liability, Business Automobile Liability and Technology E&O Policies shall each be endorsed to include Pima County, its departments, districts, officials, agents, and employees as additional insureds with respect to liability arising out of the



activities performed by or on behalf of the Subrecipient.

- 6.2.3. Subrogation Endorsement: The General Liability, Business Automobile Liability, Workers' Compensation and Technology E&O Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Subrecipient.
  - 6.2.4. Primary Insurance Endorsement: The Required Insurance policies must stipulate that they are primary and that any insurance carried by County, or its agents, officials, or employees, is excess and not contributory insurance.
  - 6.2.5. The Required Insurance policies may not obligate County to pay any portion of Subrecipient's deductible or Self Insurance Retention (SIR).
  - 6.2.6. Subcontractors: Subrecipient must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Subrecipient must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Subrecipient must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.
- 6.3. Notice of Cancellation: Subrecipient must notify County, within two (2) business days of Subrecipient's receipt of notice from an insurer, if any Required Insurance policy is suspended, voided, or cancelled for any reason. Notice must include the Pima County project or Agreement number and project description.
- 6.4. Verification of Coverage:
- 6.4.1. Subrecipient must furnish County with a certificate of insurance (valid ACORD form or equivalent approved by Pima County) for each Required Insurance policy, which must specify that the policy has all the required endorsements, and must include the Pima County project or Agreement number and project description. Each certificate must be signed by an authorized representative of the insurer.
  - 6.4.2. County may at any time require Subrecipient to provide a complete copy of any Required Insurance policy or endorsement. Note: Subrecipients for larger projects must provide actual copies of the additional insured and subrogation endorsements.
  - 6.4.3. Subrecipient must provide the certificates to County before work commences. Each Required Insurance policy must be in effect at least 10 days before work under this Agreement commences. Subrecipient must provide County a renewal certificate not less than 15 days prior to a

Required Insurance policy's expiration date. Failure to maintain the Required Insurance policies, or to provide evidence of renewal, is a material breach of contract.

6.4.4. All insurance certificates must be sent directly to the appropriate County Department.

6.5. Approval and Modifications:

The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Agreement. This can be done administratively, with written notice from the Risk Manager and does not require a formal Agreement amendment. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Subrecipient, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

7. **Indemnification.** To the fullest extent permitted by law, Subrecipient will defend, indemnify, and hold harmless County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnatee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Subrecipient or any of Subrecipient's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Subrecipient to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnatee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnatee, be indemnified by Subrecipient from and against any and all Claims. Subrecipient is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Agreement.

8. **Laws and Regulations.**

8.1. Compliance with Laws. Subrecipient will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.

8.2. Licensing. Subrecipient warrants that it is appropriately licensed to provide the services under this Agreement and that its subcontractors will be appropriately licensed.

8.3. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Agreement. Any action relating to this Agreement must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

- 8.4. Compliance with 2 CFR 200. Subrecipient will comply with the requirements of 2 CFR § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

**9. Independent Contractor.**

- 9.1. Subrecipient is an independent contractor. Neither Subrecipient, nor any of Subrecipient's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System.
- 9.2. Subrecipient is responsible for paying all federal, state and local taxes on the compensation received by Subrecipient under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Subrecipient's failure to pay such taxes.

**10. Subrecipients**

- 10.1. Subrecipient is fully responsible for all acts and omissions of any subrecipients, and of persons directly or indirectly employed by any subrecipients, 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 its own employees. Nothing in this Contract creates 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.
- 10.2. Subrecipient will not enter into any subawards for any services to be performed under this Agreement without County's prior written approval of the subaward. Subrecipient must follow all applicable Federal, State, and County rules and regulations for obtaining subrecipients.
- 10.3. Prior written approval is not required for the purchase of supplies that are necessary and incidental to Subrecipient's performance under this Agreement.
- 10.4. Subrecipient will be fully responsible for all acts and omissions of any subrecipient and of persons directly or indirectly employed by any subrecipient 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 subrecipient, except as may be required by law.
- 10.5. Subrecipient must include the provisions set forth in paragraph 5.4 in all contracts between Subrecipient and its subrecipients providing goods or services pursuant to this Agreement. Subrecipient will be responsible for subrecipients' compliance with that provision and for any disallowances or withholding of reimbursements resulting from noncompliance of said subrecipients with the provision.

11. **Assignment.** Subrecipient may not assign its rights or obligations under this Agreement, in whole or in part, without the County's prior written approval. County may withhold approval at its sole discretion.
12. **Non-Discrimination.** Subrecipient will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Agreement, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Agreement, 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. **Americans with Disabilities Act.** Subrecipient will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
14. **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. **Full and Complete Performance.** The failure of either party to insist, in one or more instances, upon the other party's complete and satisfactory performance under this Agreement, or to take any action based on the other party's failure to completely and satisfactorily perform, is not a waiver of that party's right to insist upon complete and satisfactory performance, or compliance with any other covenant or condition in this Agreement, 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 is not an accord and satisfaction.
16. **Cancellation for Conflict of Interest.** This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.
17. **Termination by County.**
  - 17.1. Without Cause. County may terminate this Agreement at any time without cause by notifying Subrecipient, in writing, at least 30 days before the effective date of the termination. In the event of such termination, County's only obligation to Subrecipient will be payment for services rendered prior to the date of termination.
  - 17.2. With Cause. County may terminate this Agreement at any time without advance notice and without further obligation to County when County finds Subrecipient to be in default of any provision of this Agreement.
  - 17.3. Non-Appropriation. Notwithstanding any other provision in this Agreement, County may terminate this Agreement 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 to pay for services rendered prior to termination.

18. **Notice.** Any notice required or permitted to be given under this Agreement must be in writing and be served by personal delivery or by certified mail upon the other party as follows:

**County:**

Regina Kelly  
Director  
Grants Management & Innovation  
130 W. Congress St., 3<sup>rd</sup> floor  
Tucson, AZ 85701  
520-724-6679

**Subrecipient:**

Daniel Matlick  
Board President  
Fourth Avenue Foundation, Inc.  
434 E. Ninth St  
Tucson, AZ 85705  
520-624-5004

19. **Non-Exclusive Contract.** 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.
20. **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 is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Agreement.
21. **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.

22. **Audit Requirements**

22.1. Subrecipient will:

- 22.1.1. Comply with the applicable provisions of the Audit Requirements for Federal Awards in 2 C.F.R. Part 200, Subpart F.
- 22.1.2. 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 County.
- 22.1.3. 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.
- 22.1.4. Ensure that all accounting records meet the requirements of the Federal, State, County, and generally accepted accounting principles laws and regulations.
- 22.1.5. 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.
- 22.1.6. 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.

22.1.7. Pay all costs for any audit required or requested pursuant to this Section 22.0.

22.2. Subrecipient status:

22.2.1. If Subrecipient is a "nonprofit corporation" that meets the definition of "corporation" in A.R.S. 10-3140, Subrecipient will comply with the applicable audit requirements set forth in A.R.S. 11-624, "Audit of Non-Profit Corporations Receiving County Monies."

22.2.2. 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.

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

Pima County Grants Management & Innovation  
130 West Congress St, 3<sup>rd</sup> floor  
Tucson, Arizona 85701

23. **Public Records.**

23.1. **Disclosure.** Pursuant to A.R.S. § 39-121 et seq., this Agreement and all documents related to this Agreement are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

23.2. **Records Marked Confidential; Notice and Protective Order.** If Subrecipient reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Subrecipient must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Subrecipient of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Subrecipient has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

24. **Legal Arizona Workers Act Compliance.**

24.1. Compliance with Immigration Laws. Subrecipient hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to its 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 Agreement likewise complies with the State and Federal Immigration Laws.

24.2. Books & Records. County has 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.

24.3. Remedies for Breach of Warranty. 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, is 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, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Subrecipient.

24.4. Subcontractors. Subrecipient will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 24 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 is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

25. **Amendment**. The parties may modify, amend, alter or extend this Agreement only by a written amendment signed by the parties.

26. **Entire Agreement**. This document constitutes the entire agreement between the parties pertaining to the subject matter it addresses, and this Agreement supersedes all prior or contemporaneous agreements and understandings, oral or written.

**[Remainder of page intentionally left blank]**

This agreement will become effective when all parties have signed it. The effective date of the Agreement will be the date this Agreement is signed by the last party (as indicated by the date associated with that party's signature).

**PIMA COUNTY**

\_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Date

**ATTEST**

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

\_\_\_\_\_  
Date

**APPROVED AS TO FORM**

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

Stacey Roseberry  
Print DCA Name

9/30/2020  
Date

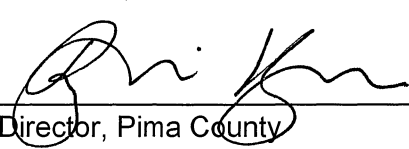
**SUBRECIPIENT**

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

Daniel Matlick  
Printed Name and Title

9/30/2020  
Date

**APPROVED AS TO CONTENT**

  
\_\_\_\_\_  
Director, Pima County  
Grants Management & Innovation  
Department

Regina Kelly  
Print Director Name

9/30/2020  
Date



## **Exhibit A (2 pages)**

### **Scope of Services**

The Chief Deputy County Administrator will lead a PCB2B Working Group for this particular Pima County Back 2 Business (PCB2B) program to be spearheaded by the Subrecipient (Fourth Avenue Foundation, Inc.). The overall purpose of this particular PCB2B program is to help small businesses address the first- and second-order effects they face as a result of the COVID-19 public health emergency. This PCB2B initiative will take place in the North Fourth Avenue business area as defined by the Subrecipient (Fourth Avenue Foundation, Inc.). In addition to the Chief Deputy County Administrator, the PCB2B Working Group will include – but is not limited to – representatives from the Subrecipient (Fourth Avenue Foundation, Inc.), North Fourth Avenue Merchants Association, Inc. (“FAMA”), the Pima County Grants Management & Innovation Department, and the Pima County Communications Department and its consultants in order to assist with the design and implementation of the program.

The primary work of the Subrecipient (Fourth Avenue Foundation, Inc.) shall include:

- Designing and implementing a program that awards grants to help small businesses in the above-referenced North Fourth Avenue business area address the first- and second-order effects they face as a result of the COVID-19 public health emergency.
- Designing and implementing an increased sanitation and safety infrastructure and marketing presence in the above-referenced North Fourth Avenue business area in order to promote and facilitate public health and safety as well as boost consumer confidence in response to COVID-19-related first- and second-order effects.

The aforementioned activities will be accomplished in three phases – Reimbursement Grants Program Design; Infrastructure Program Design; and Implementation Oversight and Expansion. These three phases will be completed and reimbursed through allowable CRF funding during the performance period March 1, 2020 through December 30, 2020.

#### **Phase One – Reimbursement Grants Program Design**

Subrecipient will, with input from Working Group representatives, design a Reimbursement Grants Program with two grant opportunities – a Fourth Avenue Financial Relief Grant and a Fourth Avenue Outdoor Healthy Space Grant – for small business grant application prospects within the North Fourth Avenue business area as defined by the Subrecipient. The design will take into account CRF allowability and verifiability requirements since CRF monies passed through from Pima County to Subrecipient will wholly fund this grant program. Detailed attention to said requirements is critical such that the Reimbursement Grants Program can be efficiently and completely implemented by the end of the CRF performance period of December 30, 2020.

**Deliverable:** A written report comprehensively outlining grants program design components.

***Estimated timeline: October 7, 2020 – October 30, 2020.***

**Minimum Requirements:**

1. Overall description of how the grant program supports local small businesses in addressing the first- and second-order effects of the COVID-19 public health emergency.
2. Specific grant application deadlines and timetables.
3. Grant application final versions.
4. Grant guidance final versions.
5. Grant review and award work flow and responsibilities across Working Group.
6. Grant award ceiling and floor amounts.
7. Business type eligibility and ineligibility criteria.
8. Cost allowability and verifiability criteria.
9. Reimbursement costs backup documentation requirements.
10. Any other required grant application, conditional grant award documentation, and final grant award documentation and certifications.

### **Phase Two – Infrastructure Program Design**

**Deliverable:** Written report outlining components of Infrastructure Program. Report will include specific and achievable tasks, task assignments, timetables, and cost estimates.

***Estimated timeline: October 7, 2020 – October 30, 2020.***

#### **Minimum Requirements:**

1. Obtain feedback from representatives of Working Group.
2. Develop detailed recommendations of the program's components including purchases of equipment and other infrastructure components.
3. Detail timetables and costs of marketing and communication campaigns.

### **Phase Three – Implementation, Implementation Oversight, and Program Expansion**

***Estimated timeline: October 7, 2020 – December 30, 2020.***

**Deliverables:** Written progress reports (due last day of month for October 2020, and November 2020 respectively. Should it be determined that the Reimbursement Grant Program and Infrastructure Program is beneficial to North Fourth Avenue businesses and the surrounding community, this phase shall include the development of a best practices report (due December 30, 2020) that can be shared with other groups and associations relating specifically to the ongoing response to the first- and second-order effects of the COVID-19 public health emergency.

#### **Minimum Requirements:**

1. Weekly calls/meetings between Subrecipient and representatives of Working Group.
2. Review of sample documentation to ensure all requirements being met.
3. Monthly on-site visit to at least three sample businesses receiving grants assistance to determine level of satisfaction and level of compliance.

**Exhibit B (2 pages)**  
**Payment and Reimbursement**

Pima County shall pay Subrecipient in accordance with the following schedule:

|  |          |
|--|----------|
| Upon execution of the Agreement  | \$5,000  |
| Upon successful completion of Phase One and submission of deliverable(s) | \$5,000  |
| Upon successful completion of Phase Two and submission of deliverable(s) | \$15,000 |

To facilitate the deployment of small business grants, Pima County will advance the following amounts upon execution of the Agreement:

|  |           |
|--|-----------|
| Fourth Avenue Financial Relief Grants – 47 grants of \$5,000/each      | \$235,000 |
| Fourth Avenue Outdoor Healthy Space Grants – 10 grants of \$1,500/each | \$15,000  |

It is anticipated that implementation of the Infrastructure Program during Phase Three shall include the following elements, for which Pima County will reimburse the Subrecipient, in accordance with CRF guidance:

**Overview:** Grant funding will be allocated to reimburse FAMA for supplies, materials, and labor expended between May and November 2020 that facilitates the reopening of the business district and promotes Pima County's "Ready for You" program for our Members, making the districts public spaces safer for everyday activities and special events.

| Item | Description  | QTY | Not to Exceed Amount | Program Amount |
|------|--|-----|----------------------|----------------|
| #1   | Digital Information Kiosks                             | 2   | \$38,000.00          | \$76,000.00    |
| #2   |  | 4   | \$10,500.00          | \$42,000.00    |
| #3   | USB Back-up Chargers                                   | 8   | \$100.00             | \$800.00       |
| #4   | Infrared Forehead Thermometer (FDA Approved) PN: IR200 | 15  | \$165.00             | \$2,475.00     |
| #5   | Tyvek wristbands (100 pack)                            | 500 | \$5.50               | \$2,750.00     |
| #6   | Outdoor X-Frame Banners                                | 10  | \$50.00              | \$500.00       |
| #7   | Light Pole Banners                                     | 20  | \$170.00             | \$3,400.00     |
| #8   | Banner Installation                                    |     | \$2,995.00           | \$2,995.00     |
| #9   | Tomahawk fogger #TMD14                                 | 2   | \$400.00             | \$800.00       |
| #10  | 55 Gal. Aseptic Plus                                   | 2   | \$2,500.00           | \$5,000.00     |
| #11  | Public Hand Sanitizer Stations                         | 75  | \$150.00             | \$11,250.00    |
| #12  | C-Cell Replacement Batteries                           | 300 | \$1.00               | \$300.00       |
|      | Zep Alcohol Hand Sanitizer (LIQUID REFILL) 55 Gallon   |     |                      |                |
| #13  | 90085 (ONE 55 Gallon Large Drum)                       | 3   | \$760.00             | \$2,280.00     |

|     |   |     |               |                     |
|-----|---|-----|---------------|---------------------|
| #14 | Rubber Gloves, Box  | 200 | \$25.00       | \$5,000.00          |
| #15 | Trash Bags, Box   | 99  | \$50.00       | \$4,950.00          |
|     | QueuePole .Economy 41.5" Black<br>Stanchion Post with 6.5' SOCIAL |     |               |                     |
| #16 | DISTANCING Printed Belt   | 300 | \$65.00       | \$19,500.00         |
|     |   |     | <b>Total:</b> | <b>\$180,000.00</b> |

The Subrecipient is responsible for the development of all subcontracts or subawards to other organizations or businesses as end-user grant beneficiaries and/or Subrecipients and in compliance with County and federal regulations and subject to approval by County. This includes compliance with 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and Subpart F regarding audit requirements.

### **Reporting and Invoice Submission**

Subrecipient is required to submit allowable and verifiable documentation in support of reimbursement for COVID-19-related activities detailed herein, by the County, pursuant to CRF allowability and verifiability guidance issued by U.S. Department of the Treasury and U.S. Department of the Treasury/Office of Inspector General for the period beginning March 1, 2020, and ending December 30, 2020.

Submittal of allowable costs must be submitted by the 15<sup>th</sup> day of each month for expenses from the month prior, using the appropriate County invoice process; all final invoices must be received by the Pima County Grants Management & Innovation Department by December 30, 2020 for all costs incurred between March 1, 2020 and December 30, 2020.

Phase One and Two reporting and associated workplans must be submitted to the leader of the PCB2B Working Group (Chief Deputy County Administrator Jan Leshner) by the 15<sup>th</sup> day of the month following completion.

Allowable reporting and documentation to support reimbursement is detailed in this exhibit.