PROJECT ADMINISTRATION CONTRACT

This contract is entered into this 8th day of April, 2024, by and between the City of Weiser, Idaho, whose address is 55 W. Idaho Street, Weiser, Idaho 83672, herein referred to as the "City" and REGION IV DEVELOPMENT ASSOCIATION, INC., whose address is 202 Falls Ave., P.O. (Box 5079), Twin Falls, Idaho 83301 (83303-5079), herein referred to as the "Administrator", WITNESSETH:

WHEREAS, the City has made application to and has been approved by the Idaho Department of Commerce, herein referred to as "the Department", for the receipt of grant funds under the Idaho Community Development Block Grant (CDBG) CARES Public Parks for Resiliency program for purposes of improving Memorial Park. Specific components of the project include the removal and replacement of an existing playground structure and the replacement of ground surfacing to meet current safety requirements; and

WHEREAS, the City desires to engage the Administrator to render certain services related to the administration of the above described project; and

WHEREAS, the City has engaged these services in compliance with provisions for the solicitation of contractors as cited in OMB Super Circular 2 Part 200; and

WHEREAS, to ensure effective management of the above project, it is deemed to be in the best interest of the City to enter into an agreement with the Administrator as hereinafter provided;

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

1. EMPLOYMENT OF ADMINISTRATOR

The City agrees to engage the Administrator, and the Administrator agrees to provide the services described in Section 6 in order to provide for the administration and management of the above project for the City as approved by the appropriate funding agencies.

2. EMPLOYEE-EMPLOYER RELATIONSHIP

The contracting parties warrant by their signature that no employer-employee relationship is established between the Administrator and the City by the terms of this contract. It is understood by the parties hereto that the Administrator is an independent Administrator and as such neither it nor its employees, if any, are employees of the City for purposes of tax, retirement system or social security (FICA) withholding.

3. ADMINISTRATOR'S INSURANCE

The Administrator warrants that it has obtained and will maintain at its expense for the duration of this Contract, statutory worker's compensation coverage, employer's liability, and comprehensive general liability insurance coverage for its principals and employees for the services to be performed hereunder. The comprehensive general liability insurance shall have, at a minimum, a coverage limit of at least one hundred thousand dollars (\$100,000) per claim, and five hundred thousand dollars (\$500,000) aggregate.

4. <u>LIAISON</u>

The City's designated liaison with the Administrator is Mike Campbell, Public Works Director (and others as assigned to this project). The Administrator's designated liaison with the City is Adeanna Jenkins with the assistance of Michele McFarlane, Jeff McCurdy, and Brandy Lowe.

5. EFFECTIVE DATE AND TIME OF PERFORMANCE

This Contract takes effect November 1, 2023 (the date of the CDBG award). The services to be performed by the Administrator will be completed no later than February 28, 2025, as identified in the City's CDBG Contract with the Department that was issued by the Department on February 16, 2024.

If the services covered by this agreement have not been completed by <u>February 28, 2025</u>, through no fault of the Administrator, compensation for the extension of the Administrator's services beyond this time shall be renegotiated.

6. SCOPE OF SERVICES

The Administrator will perform the services as identified and explained on "Attachment A – Scope of Work".

It is understood and agreed by the parties that the services of the Administrator do not include any of the following: the disbursement or accounting of funds distributed by the City financial officer, legal advice, engineering, construction management, inspection services, fiscal audits or assistance with activities not related to the project.

7. COMPENSATION

For the satisfactory completion of the services to be provided under this contract, the City will pay the Administrator a sum, not to exceed \$_25,000.00__. The amount paid for each scope of work activity is identified on "Attachment A – Scope of Work".

8. CONFLICT OF INTEREST

The Administrator warrants that it presently has no interest and will not acquire any interest, direct or indirect, in the project that would conflict in any manner or degree with the performance of its services hereunder. The Administrator further covenants that, in performing this contract, it will employ no person who has any such interest. Should any conflict of interest, as defined by the CDBG Administrative Rules, arise during the performance of this contract, it will be disclosed and managed in accordance with applicable rules and regulations.

9. MODIFICATION AND ASSIGNABILITY OF CONTRACT

This contract contains the entire agreement between the parties, and no statements, promises or inducements made by either party or agents of either party, that are not contained in the written contract, are valid or binding. This contract may not be enlarged, modified or altered except upon written agreement signed by both parties hereto. The Administrator may not sub-contract or assign its rights (including the right to compensation) or duties arising hereunder without the prior written consent of the City and appropriate funding sources. Any sub-Administrator or assignee will be bound by all of the terms and conditions of this contract.

10. TERMINATION OF CONTRACT

This contract may be terminated as follows:

a. <u>Termination due to loss of funding</u>.

In the event that any of the partner funding agency(ies) reduces or terminates payments under their specific program so as to prevent the City from paying the Administrator, the City will give the Administrator written notice which sets forth the effective date of the termination and explains the reasons for the termination. The notice shall also describe the conditions for any reimbursement for any work completed.

b. Termination for Convenience

The City may terminate this contract in whole, or in part, for the convenience of the City when both parties agree that the continuation of the project is not in the best interest of both parties and that further expenditure of funds will not produce any results. The parties shall agree in writing, upon the conditions, effective date, and fair and reasonable payment for work completed.

c. Termination for Cause

If the City determines that the Administrator has failed to comply with the terms and conditions of this contract, it may terminate this contract in whole, or in part, at any time before the date of completion. If the Administrator fails to comply with any of the terms and conditions of this contract, the City may give notice, in writing, to the Administrator of any or all deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If all defaults are not cured and corrected within a reasonable period as specified in the notice, the City may, with no further notice, declare this Contract to be terminated. The Administrator will thereafter be entitled to receive payment for those services reasonably performed to the date of termination, less the dollar amount of reasonable damages suffered by the City by reason of the Administrator's failure to comply with this contract.

11. DOCUMENTS INCORPORATED BY REFERENCE

The City's application to the Department for CDBG CARES Public Parks for Resiliency funding, dated <u>September 18, 2023</u>, and all applicable federal and state statutes and regulations are incorporated into this contract.

12. CIVIL RIGHTS ACT OF 1964

The Administrator will abide by the provisions of the Civil Rights Act of 1964 that states under Title VI, no person may, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to, discrimination under any program or activity receiving federal financial assistance.

13. <u>SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974</u>

The Administrator will comply with the following provision: No person in the United States may, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of or be subjected to, discrimination under any program or activity funded in whole or in part, with the funds made available under this title. Any prohibition against discrimination on the basis of age under the Age

Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 will also apply to any such program or activity.

14. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The Administrator will ensure that, to the greatest extent feasible, opportunities for training and employment arising in connection with this CDBG assisted project will be extended to lower income project area residents. Further, the Administrator will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area in the award of contracts and purchase of services and supplies.

15. MINORITY BUSINESS ENTERPRISE

Consistent with the provisions of Executive Order 11246 and OMB Super Circular 2 Part 200, the Administrator will take affirmative steps to ensure minority businesses are used when possible as sources of supplies, equipment, construction, and services. Additionally, the Administrator must document all affirmative steps taken to solicit minority businesses and forward this documentation along with the names of the minority sub-Administrators and suppliers to the City upon request.

16. NONDISCRIMINATION

The Administrator will not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap or national origin.

17. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by the Administrator pursuant to this contract are to be the property of the City and the appropriate funding agency partners which have the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part. All such materials developed under this contract shall not be subject to copyright or patent in the United States or in any other country without the prior written approval of the City and funding agency partners.

18. REPORTS AND INFORMATION

The Administrator will maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this contract and such other records as may be deemed necessary by the City to ensure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the City or its authorized representative and will be retained for five (5) years after the expiration of this contract.

19. ACCESS TO RECORDS

It is expressly understood that the Administrator's records relating to this contract will be available during normal business hours for inspection by the City, agents of the appropriate funding partners (e.g. USDA-RD, IDOC, the U.S. Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the U.S. Comptroller General, Office of Inspector General), and, when required by law, representatives of the State of Idaho.

20. CONSTRUCTION AND VENUE

This Contract will be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, venue is the Fifth Judicial District in and for the County of Twin Falls, State of Idaho.

21. INDEMNIFICATION

The Administrator waives any and all claims and recourse against the City, including the right of contribution for loss and damage to persons or property arising from, growing out of or in any way connected with or incident to, the Administrator's performance of this contract except for liability arising out of concurrent or sole negligence of the City or its officers, agents or employees. Further, the Administrator will indemnify, hold harmless, and defend the City against any and all claims, demands, damages, costs, expenses or liability arising out of the Administrator's performance of this contract except for liability arising out of the concurrent or sole negligence of the City or its officers, agents or employees.

22. <u>LEGAL FEES</u>

In the event either party incurs legal expenses to enforce the terms and conditions of this contract, the prevailing party is entitled to recover reasonable attorney fees and other costs and expenses, whether the same are incurred with or without suit.

23. SPECIAL WARRANTY

The Administrator warrants that nothing of monetary value has been given, promised or implied as remuneration or inducement to enter into this contract. The Administrator further declares that no improper personal, political or social activities have been used or attempted in an effort to influence the outcome of the competition, discussion or negotiation leading to the award of this contract. Any such activity by the Administrator shall make this contract null and void.

IN WITNESS WHEREOF, the parties hereto have executed this contract on this <u>10th</u> day of April, 2024.

	CITY OF WEISER	REGION IV DEVELOPMENT ASSOCIATION, INC.
Ву:		By: Offing C. Milmoly
	Randal Hibberd, Mayor	Jeffrey C. McCurdy, President
	April 8, 2024 Date	April 4, 2024 Date
Attest: _		Attest: Attest:

ATTACHMENT A

SCOPE OF WORK

The City shall pay Region IV Development Association, Inc. a sum not to exceed \$_25,000.00\$ for the following project activities:

1. <u>Project Set-Up</u> – Develop project file system, facilitating financial management procedures including cost allocation plan (if necessary), meetings with the grantee and stakeholders, submission of pre-contract documents, attend planning sessions and public meetings as necessary, respond to inquiries, submission of pre-contract documents, and explain funding requirements to City and other parties of interest.

For services performed, a lump sum amount of \$ 2,000.00

2. Environmental Review – Conduct an environmental review per 24 CFR Part 58, requirements and guidelines issued by the partnering funding agency(ies). Duties include, but are not limited to, accessing project site, touring the site, gathering and verifying documentation, determining the level of clearance, preparing an Environmental Review Record. Advise the City on procedural processes, and when necessary, assist with public notification requirements. Gathering and tracking comments, collecting any technical environmental studies from design professional. Debrief the City on the review and establish mitigation measures. Securing the funding source's environmental concurrence.

For services performed, a lump sum amount of \$ 3,500.00.

- 3. Acquisition and Relocation Assist City in complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act for any property, permanent easements or long-term leases acquired for the project. Services include ensuring necessary processes are followed, documented, and approved by the appropriate funding partner. These services also involve attending meetings, providing assistance to City's legal counsel, and providing progress reports to funding agencies. For services performed, a lump sum amount of \$ NA .
- 4. **Project Monitoring** Assist City in setting up the procurement and then the selection of a design professional and/or contractors in accordance with funding agencies program requirements. Participating in pre-bid, pre-construction, and construction progress meetings, and other meetings as needed. Review bidding documents for funding program requirements and assist with any corrections that are necessary. Review of construction progress monitoring, reporting, and construction close-out. Coordinate efforts of the City, Engineer, Administrators, and funding agencies. Assist in preparing and submitting required reports to funding agencies.

For services performed, a lump sum amount not to exceed \$ 5,600.00 ...

5. Labor Monitoring – Ensuring construction Administrators are meeting the requirements of the Davis Bacon Act, Copeland Act, CWHSSA and Fair Labor Standards Act. Duties include, but are not limited to educating contractors about the labor requirements, providing labor documents and forms to contractors and their sub-contractors, identify appropriate wage determination, requesting additional wage classifications, reviewing and tracking payrolls, conducting employee labor interviews on-site or mail, traveling to project site, observing workers, comparing payroll information to interview, documenting payroll interviews, identifying and investigating errors with contractor, reporting and facilitating the correction of errors or problems to Commerce, and completion of required labor reports.

For services performed, a lump sum amount not to exceed \$_4,800.00_.

6. Financial Management – Assist the City with establishing project financial management processes and procedures. Prepare payment requests for funding agency approval and facilitate the correction of errors or problems that are identified. Maintain a record of project expenditures and document that the City is properly disbursing funds in accordance with program requirements. Assist the City with tracking in-kind services associated with the project (if applicable). Provide progress updates to City and funding agencies as requested. Note: These services do not replace the City's responsibility to work with their financial team to ensure accuracy in disbursements, etc. Notwithstanding the exclusions included in Section 6 of this agreement.

For services performed, a lump sum amount not to exceed \$ 3,600.00.

7. <u>Civil Rights</u> – Completing funding agency required civil rights activities and documents. Duties include explain, educating, and documenting the city's and/or contractors' compliance with CDBG civil rights requirements. Duties also include the assistance with scheduling, preparing, presenting a project status update, and participating public hearings, as required by the CDBG CARES program.

For services performed, a lump sum amount of \$_1,500.00_.

8. <u>Fair Housing Plan</u> – Helping to ensure the City is taking steps to affirmatively further fair housing. Duties include ensuring the City understands and adopts the fair housing resolution, proclaiming fair housing month, and displaying fair housing information. Assisting and guiding the City in completing a fair housing assessment including identifying impediments and actions to mitigate an impediment.

For services performed, a lump sum amount of \$ 1,800.00 .

- 9. <u>504 Analysis and Transition Plan</u> Assisting the City in conducting a self-evaluation of its facilities, services, and programs. Helping to develop and implement a transition plan and the effective communication checklist. Ensuring the City has in place a 504 coordinator, non-discrimination policy and grievance procedure.
- 10. <u>Job Creation Documentation</u> Assist the City with job creation documentation activities by establishing and maintaining a file and collecting documentation. For services performed, a lump sum amount of \$ NA.

The total amount paid in progress payments as listed above shall not exceed ninety (90%) percent of the total compensation sum.

11. Project Close-Out – Documentation that the City has met the agencies requirements; i.e., CDBG national objective and contractual performance requirements. Completing for review and signature the required agency close-out documents. Ensure all project and close-out documents are submitted and approved by the agencies. Ensure requested documents, concerns, and findings are addressed and resolved. Agencies approval to close out.

For services performed, a lump sum amount of \$ 2,200.00 .