

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2018, by and between the Lexington-Fayette Urban County Government, an urban county government of the Commonwealth of Kentucky pursuant to KRS 67A (hereinafter “GOVERNMENT”), whose mailing address is 200 East Main Street, Lexington, Kentucky 40507, and AmeriNat, a limited liability company organized and existing under the laws of the State of Minnesota (hereinafter “CONTRACTOR”), whose mailing address is 217 S. Newton Avenue, Albert Lea, Minnesota 56007.

WITNESSETH:

WHEREAS, GOVERNMENT has been awarded federal funds from the U.S. Department of Housing and Urban Development (hereinafter “HUD”) under the Federal Community Development Block Grant Program and the HOME Investment Partnerships Program;

WHEREAS, GOVERNMENT issued a Request for Proposals, RFP #11-2018 “Loan Servicing for Division of Grants and Special Programs;”

WHEREAS, GOVERNMENT has selected CONTRACTOR to perform the herein described services;

WHEREAS, the GOVERNMENT’S responsibility for ensuring compliance with all grant requirements necessitates a written Agreement with CONTRACTOR;

NOW, THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, pursuant to federal requirements, the parties hereto agree as follows:

ARTICLE I

General Terms:

1. The terms of this Agreement shall be for a period beginning July 1, 2018 and continuing until June 30, 2021, unless within that period either party gives sixty (60) days written notice of termination of this Agreement in which case this Agreement shall terminate sixty (60) days from the date notice is given. The contract will be for an initial 3 years with 3-1 year automatic renewals.
2. The total amount of grant funds available for distribution by the GOVERNMENT shall not exceed \$70,000 annually for services for the period of July 1, 2017 through June 30, 2021 to include tax monitoring and tax escrows as requested at loan set-up, insurance monitoring and insurance escrows, as requested at loan set-up, delinquency follow up/loss mitigation, and credit reporting.
3. This Agreement shall include the following additional documents, which are attached hereto as Exhibits and incorporated herein by reference as if fully stated:

- a. Exhibit “A” – RFP #11-2018 – Loan Servicing for Division of Grants and Special Programs, consisting of 39 pages, and Addendum #1 consisting of 1 page.
- b. Exhibit “B” – CONTRACTOR’S Formal Response to RFP #11-2018, consisting of 79 pages;
- c. Exhibit “C” – Fee Schedule (as included in the formal response to RFP)

ARTICLE II

Obligation of GOVERNMENT:

To provide up to \$70,000 in grant funds for the support of the herein described services and scope of work for the period of July 1, 2017 through June 30, 2021.

ARTICLE III

Obligations of CONTRACTOR:

1. CONTRACTOR shall perform services as outlined in the Request for Proposals (Exhibit A) and in the CONTRACTOR’S proposal response (Exhibit B) as requested by the GOVERNMENT.
2. CONTRACTOR shall be compensated according to the Fee Schedule included in the CONTRACTOR’S proposal response (Exhibit C). CONTRACTOR will remit the total receipts of principal and interest monthly, net of servicing fees deducted for services performed in the respective month as supported by a separate accounting remittance manifest that includes evidence of the services provided.
3. The CONTRACTOR agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.
4. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability or other handicap, or age. The CONTRACTOR shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin, age, or handicap. CONTRACTOR will take affirmative action to insure that all employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this discrimination clause.

5. CONTRACTOR will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
6. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Orders 11375 and 12086, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
7. CONTRACTOR shall comply with all provisions as applicable of Executive Order No. 11246 of September 24, 1965, as amended by Executive Orders 11375 and 12086, and the rules, regulations, and relevant orders of the Secretary of the U.S. Department of Labor.
8. CONTRACTOR will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Orders 11375 and 12086, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
9. In the event of the CONTRACTOR'S noncompliance with the discrimination clauses of the contract or with any such rules, regulations, and orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246, of September 24, 1965, as amended by Executive Orders 11375 and 12086, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246, of September 24, 1965, as amended by Executive Orders 11375 and 12086, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
10. The CONTRACTOR will include the provisions of paragraphs (1) through (8) of Section 202 of Executive Order No. 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
11. The CONTRACTOR shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135. The CONTRACTOR further agrees to comply with these "Section 3" requirements and to include the following language in all subcontractors executed under this Agreement:

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The CONTRACTOR further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

12. CONTRACTOR shall retain all records pertinent to expenditures incurred under this Agreement, for a period of (5) five years after the termination of all activities funded under this Agreement. CONTRACTOR shall also provide officials of the GOVERNMENT, officials of HUD, and the Comptroller General of the United States, or any of their authorized representatives, access to any pertinent books, documents, papers, or other records of CONTRACTOR which are pertinent to funds expended under the terms of the Agreement, in order to make audits, examinations, excerpts and transcripts. The right of access shall be for the period in which records are retained. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.
13. The CONTRACTOR certifies, in accordance with Executive Order 12549 (Debarment and Suspension February 18, 1986) that to the best of its knowledge and belief, that it, its principals, and its subcontractors:
 - a. Are not presently debarred, suspended, proposed for debarment, declared negligible, or voluntarily excluded from covered transactions or contract by any Federal department or agency for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended or any other federal law;

- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (a) of this certification; and
- d. Have not within a three-year period preceding this proposal had one or more public (Federal, State, or local) transactions or contracts terminated for cause or default.

14. Certification of Lobbying

- a. No federal funds appropriated to the CONTRACTOR pursuant to this contract shall be used to influence, either directly or indirectly, the introduction or modification of any Federal or State legislation, or the outcomes of any Federal, State, or local election, referendum or initiative.
- b. In addition, for any payment involving federal funds, the CONTRACTOR certifies, to the best of his or her knowledge and belief, that for the preceding contract period, if any, and for this current period:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
 - ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The CONTRACTOR shall require that the language of the certification be included in the award documents for all sub awards at all tiers and that all sub recipients shall certify and disclose accordingly.

- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made and entered into. Submission of the certification is a prerequisite for making or entering into this transaction imposed under section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.
15. The CONTRACTOR shall comply with 1994's Senate Bill 258, provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342, which apply to the CONTRACTOR'S operations.
16. CONTRACTOR agrees to maintain Commercial General Liability and Umbrella Excess Liability Protection Insurance Coverage at an amount not less than \$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit for general liability, \$1 million per occurrence for Commercial Automobile Liability, \$1 million per occurrence and \$2 million aggregate for Professional Liability, and \$500,000 for Employer's Liability. GOVERNMENT will be named as an additional insured on the CGL policy. CONTRACTOR shall provide Worker's Compensation as provided by statute.
17. CONTRACTOR shall defend, indemnify, and hold harmless the GOVERNMENT from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and attorney's fees, that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, in whole or in part, from or by: (a) CONTRACTOR'S negligent acts or misconduct, or errors or omissions, in connection with the performance of this Agreement; (b) CONTRACTOR'S performance or breach of the contract provided the claim or loss is attributable to death, illness, personal injury, or property loss or damage or loss of use, and not caused by a negligent act or omission, or the willful misconduct of the GOVERNMENT; or (c) the condition of any premises, equipment or other property being used or operated by the CONTRACTOR in connection with the performance of this contract. In the event GOVERNMENT is alleged to be liable based upon the actions or inactions of CONTRACTOR, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by GOVERNMENT, which approval shall not be unreasonably withheld. This Indemnification and Hold Harmless Provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

ARTICLE IV

Additional Terms:

1. This Agreement may be terminated by the GOVERNMENT upon sixty days written notice, if CONTRACTOR materially fails to comply with any term of the Agreement in accordance with 24 CFR 85.43.
2. This Agreement may be terminated for convenience upon sixty days written notice by either party in accordance with 24 CFR 85.44.

3. GOVERNMENT and CONTRACTOR each binds himself and his partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements, and obligations of the Agreement.
4. The CONTRACTOR shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the GOVERNMENT prior to the execution of such agreement.
5. If this Agreement results in any copyrightable material or inventions, the GOVERNMENT and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.
6. This Agreement contains the entire and complete understanding of the parties and neither party has relied upon any representation not contained herein.
7. This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the GOVERNMENT and CONTRACTOR.
8. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by and determined in accordance with the laws of the Commonwealth of Kentucky without regard to conflicts of law principles. The prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which said party may be entitled.
9. Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the un-exercised portion, can be reasonably interpreted to give effect to the intentions of the parties.
10. Any delays in or failure of performance by either party, except in respect of the obligation of payments under this Agreement, shall not constitute default of this Agreement, if and to the extent such delays or failures are caused by occurrence(s) beyond the reasonable control of the party affected, and which by the exercise of due diligence such party is unable to prevent, such occurrence(s) including but not limited to: acts of God, sabotage, war, acts of terrorism, riots, insurrections, civil unrest, riots, embargoes, strikes, lockouts, fires, floods, tornados, hurricanes or other natural disaster or governmental actions. In any such event, the party claiming Force Majeure shall promptly notify the other party of the nature of the event in writing, and, if reasonably possible, such notice shall set forth the extent and duration thereof, and shall resume performance at the earliest possible date.
11. The CONTRACTOR operates under the regulation and jurisdiction of various licensing authorities including the GOVERNMENT's State authorities, the requirements of which may vary from time to time. If CONTRACTOR'S relevant authority were to be modified and/or revoked due to changes in circumstances or regulation, CONTRACTOR will provide prompt

notice of its requirement to terminate services and will terminate services before the latest available date as allowed by regulatory authority. Termination under this provision will not be deemed to be a default by CONTRACTOR, and no liability will exist to reimburse GOVERNMENT for any losses incurred as a result of the termination. If services are terminated under this provision GOVERNMENT will not be liable to CONTRACTOR for any transfer fees specified in the fee section of this agreement.

12. If the services to be provided under this agreement include the acceptance of loan payments and/or 1099 reporting (1099-Int, 1099-C, etc.), CONTRACTOR will submit the required 1098 and/or 1099 forms to the Internal Revenue Service as required. If the loan data provided by GOVERNMENT does not include a valid social security number for a borrower(s), CONTRACTOR will exercise all reasonable means to obtain such valid social security number(s). CONTRACTOR will also notify GOVERNMENT, at a minimum of one time annually, of any missing or invalid social security numbers which remain outstanding. If the lack of an available and/or valid social security number(s) results in a penalty or fine assessed by the Internal Revenue Service, GOVERNMENT will be notified of the amount of the penalty and fine, and will immediately reimburse CONTRACTOR for any such penalty or fine paid or to be paid.
13. The CONTRACTOR agrees to perform its services in accordance with established policies and procedures designed to detect, prevent, and mitigate the risk of money laundering, terrorist financing or other crimes. Such policies and procedures are available for review by the GOVERNMENT on their request. GOVERNMENT is responsible for OFAC screening of borrowers prior to loan origination to ensure they do not appear on the U.S. Department of Treasury's "Specially Designated Nationals List (SDN) (<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>), and for compliance with Anti-Money Laundering program requirements of 31 U.S.C. § 5318(h), or other directives that may relate to the appropriate verification of borrower identity to ensure the prohibition of transactions with certain foreign countries and/or their nationals. GOVERNMENT also agrees to immediately notify CONTRACTOR if it becomes aware of any of its borrowers being added to the SDN during the term of this agreement.
14. CONTRACTOR performs its services in accordance with established policies and procedures designed to provide for adequate privacy, protection, security and confidentiality of consumer information. The GOVERNMENT acknowledges its obligation under the Gramm-Leach-Bliley Act 15 USC 6801 and confirms that it adheres to the provisions of this regulation and related guidance, including issuance of the proper privacy notices to its customers.
15. Any written notices, bills, invoices, or reports required by this Agreement shall be sent by the parties hereto in the United States Mail, postage paid, to the addresses noted below:

FOR THE GOVERNMENT: Lexington-Fayette Urban County Government
Division of Grants and Special Programs
200 East Main Street
Lexington, Kentucky 40507
ATTN: Cyndra Brown, Grants Manager

FOR THE CONTRACTOR: AmeriNat
217 S. Newton Ave.
Albert Lea, MN 56007
ATTN: Amber Loverink
Marketing & Contracts Manager

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky,
the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: _____
Jim Gray, Mayor

ATTEST:

Clerk of Urban County Council

AMERINAT

BY: _____

Printed Name Title