

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
(Single Family (SF) Rehabilitation Program - AmeriNational Community Services, Inc.)**

This **PROFESSIONAL SERVICES AGREEMENT (SF Rehabilitation Program - AmeriNational Community Services, Inc.)** ("Agreement") is entered into as of July 1, 2015 ("Effective Date"), by and among the **CITY OF COSTA MESA**, a municipal corporation ("City"), the **COSTA MESA HOUSING AUTHORITY**, a public body corporate and politic ("Authority"), and **AMERINATIONAL COMMUNITY SERVICES, INC.**, a Minnesota Corporation ("Consultant"). Each of the City, Authority and Consultant are referred to as a "Party" and together as the "Parties"; and, the City and Authority are referred to together, as "Costa Mesa".

W I T N E S S E T H

A. Authority is a California housing authority organized, existing and operating under the Housing Authorities Law, Health and Safety Code Section 34200, *et seq.* ("HAL") and also operating as the "housing successor" to the former and now dissolved Costa Mesa Redevelopment Agency ("former Agency") under Division 24, Part 1.85 of the Health and Safety Code ("Dissolution Law").

B. The City and Authority, as housing successor, and City staff acting on behalf of Costa Mesa administer, monitor, enforce, and oversee the Costa Mesa Single-Family Rehabilitation Grant and Loan Program ("SF Rehab Program") for which Costa Mesa continues to issue loans, grants, and administer existing, outstanding loans to owners of single-family homes, including detached homes, townhomes, condominiums, and mobilehomes provided by the City, the former Agency prior to dissolution (now held by the Authority as housing successor), to certain, eligible income-qualified home owners who own and occupy the subject property as their primary residence with each home owner/participant having received, or to receive, a second mortgage assistance loan by entering into series of loan instruments with Costa Mesa, including a promissory note, secured by a deed of trust, and affordability and resale restrictions of record, and other documents (together, "SF Rehab Documents"). Consultant has provided professional services to Costa Mesa relating to the SF Rehab Program, and by this Agreement Costa Mesa desires to continue to utilize the services of Consultant as an independent contractor to assist with and oversee new loans, existing loans, and the administration of the SF Rehab Program as more fully described herein.

C. Consultant represents that it has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated.

D. Costa Mesa and Consultant desire to contract for the specific services described in Exhibits A and B (together, "Services") and desire to set forth their rights, duties and liabilities in connection with the Services to be performed under this Agreement.

E. No official or employee of Costa Mesa has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

F. The contract for servicing and compliance monitoring service changes as a result of the May 29, 2015, O'Brien-Staley Partners ("OSP") purchase of 100% of the common stock of AmeriNational Community Services from American Bank of St. Paul ("American Bank"); provided

however, that Consultant and Costa Mesa will, in an amendment or other modification instrument to be executed within thirty (30) days of the Effective Date hereof, establish the procedures, process and administration of the funds disbursement and funds administration under this Agreement going forward.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in Exhibit A, which is attached hereto and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise Costa Mesa of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of Costa Mesa. Consultant agrees to perform all the work to the complete satisfaction of Costa Mesa and within the hereinafter specified. Evaluations of the work will be done by the City Manager/Authority Executive Director or his designee. If the quality of work is not satisfactory, Costa Mesa in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the Services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless both City and Authority, and their appointed and elected officials, officers, employees, and agents from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City and/or Authority for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status,

sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that either or both City and Authority may enter into contracts with other consultants for services similar to the Services that are subject to this Agreement or may have its own employees perform services similar to those Services contemplated by this Agreement. In this regard, Consultant acknowledges and agrees that certain City staff in the Community Development Department, including the housing/neighborhood improvement division, and other City departments and divisions provide administrative support in implementation and administration of the SF Rehab Program.

1.7. Delegation and Assignment. This is a personal services contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of both City and Authority, which may be authorized, or not, in Costa Mesa's sole discretion. Consultant may engage subcontractor(s) as permitted by law and may employ other personnel to perform the Services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of Costa Mesa. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by Costa Mesa. Costa Mesa shall grant such authorization if disclosure is required by law. All City and Authority data shall be returned to Costa Mesa upon the termination of this Agreement. Consultant's covenant under this Section 1.8 shall survive the termination of this Agreement.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit B attached hereto and made a part of this Agreement ("Fee Schedule"). During the Term of this Agreement, Consultant's total compensation shall not exceed One Thousand Dollars (\$1,000.00), unless authorized in writing by amendment to this Agreement

2.2. Additional Services. Consultant shall not receive compensation for work or other services provided outside the scope of Services specified in Exhibits A and B hereto unless Costa Mesa or the assigned Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to Costa Mesa for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's Services that have been completed to Costa Mesa's sole satisfaction. Costa Mesa shall pay Consultant's invoice within forty-five (45) days from the date Costa Mesa receives said invoice. Each invoice shall describe in detail the Services performed, and the date of performance. Any additional services approved in writing and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's Services relating to this Agreement shall be maintained in accordance with generally accepted accounting principles and shall be made available to Costa Mesa or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Services. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said Services shall be performed expeditiously by Consultant. The Project Schedule may be amended by mutual agreement of the Parties. Failure to commence performance of the Services in a timely manner and/or diligently pursue undertaking of the Services to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. No Party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of a Party or Parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with new laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a Party.

4.0 TERM AND TERMINATION

4.1. Term. The "Term" of this Agreement shall commence on July 1, 2015 and continue for a period of one year, ending on June 30, 2016, unless previously terminated as provided herein; provided however, prior to the end of the Term, Consultant and Costa Mesa may mutually agree, in writing, to renew this Agreement for up to three (3) additional, single one-year periods.

4.2. Notice of Termination. Costa Mesa reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the Services contemplated by this Agreement, with or without cause, at any time, by providing written notice to the Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination from Costa Mesa to the Consultant. In the event of such termination, Consultant shall immediately stop rendering Services under this Agreement unless directed otherwise by Costa Mesa.

4.3. Compensation. In the event of termination, Costa Mesa shall pay Consultant for the Services, including reasonable costs incurred, actually and satisfactorily performed up to and including the date of Costa Mesa's written notice of termination. Compensation for Services under way and in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the Services contemplated herein whether delivered to Costa Mesa or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to Costa Mesa within thirty (30) days of delivery of termination notice to Consultant, at no cost to Costa Mesa. Any use of uncompleted documents without specific written

authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by the City's risk management department:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and the Costa Mesa Housing Authority and their elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City and Authority; products and completed

operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.”

- (b) Notice: “Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to Costa Mesa.
- (c) Other insurance: “The Consultant’s insurance coverage shall be primary insurance as respects the City of Costa Mesa and the Costa Mesa Housing Authority and their officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City or Authority shall be excess and not contributing with the insurance provided by this policy.”
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City and Authority and their officers, officials, agents, employees, and volunteers.
- (e) The Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by Costa Mesa. No policy of insurance issued as to which the City and/or Authority is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to Costa Mesa certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by Costa Mesa, prior to performing any Services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit C and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section 5.5 shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0 GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the Parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The Chief Executive Officer/Authority Executive Director or his designee shall be the representative of Costa Mesa for purposes of this Agreement and may issue all

consents, approvals, directives and agreements on behalf of Costa Mesa, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. Costa Mesa shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with Costa Mesa during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by Costa Mesa.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

AmeriNational Community Services, Inc.
217 South Newton Avenue
Albert Lea, MN 56007
Tel: 866-779-5546
Fax: 562-745-1281
Attn: Amber Anderson
Marketing and Contracts Manager

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-4870
Fax: (714) 754-4913
Email: JACQUIE.REEVES@costamesaca.gov
Attn: Jacqueline Y. Reeves
Program Manager/Management Analyst
With Copies to:
City Attorney, City of Costa Mesa and
Chief Executive Officer
FEIN # 95-600-5030

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in Costa Mesa Council Policy 100-5, attached hereto as Exhibit D and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by Costa Mesa.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing Party shall be entitled to recover from the opposing Party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing Party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without Costa Mesa's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of Costa Mesa's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City and Authority, their elected and appointed officials, officers, agents and employees, and volunteers at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City and/or Authority, their elected officials, officers, agents, employees or volunteers arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the Services and related work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City and/or Authority, their elected and appointed officials, officers, agents, employees and volunteers based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City and Authority for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City and/or Authority. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, if any, which shall be of no force and effect.

Costa Mesa agrees to indemnify, defend and hold harmless Consultant and its respective employees, representatives, agents, successors and assigns (individually and collectively, "Indemnitees") from and against any and all losses, damages, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred by the Consultant in connection with a breach by Costa Mesa of any of the covenants, agreements, representations or warranties contained herein, or the sole, wilful negligence or intentional misconduct of Costa Mesa, or any of its employees, subcontractors or agents.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of Costa Mesa. Consultant shall have no power to incur any debt, obligation, or liability on behalf of Costa Mesa or otherwise act on behalf of Costa Mesa as an agent. Neither Costa Mesa nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in

any manner agents or employees of Costa Mesa. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City and Authority harmless from any and all taxes, assessments, penalties, and interest asserted against Costa Mesa by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City and Authority harmless from any failure of Consultant to comply with the applicable worker's compensation laws. Costa Mesa shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to Costa Mesa from Consultant as a result of Consultant's failure to promptly pay to Costa Mesa any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of Costa Mesa, Consultant shall indemnify, defend, and hold harmless City and Authority for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Costa Mesa.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing any work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by Costa Mesa, including but not limited to eligibility to enroll in PERS as an employee of Costa Mesa and entitlement to any contribution to be paid by Costa Mesa for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against Costa Mesa relating to Consultant's performance or Services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which Costa Mesa might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of Costa Mesa. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of Costa Mesa. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of Costa Mesa and without liability or legal exposure to Consultant. Costa Mesa shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from Costa Mesa's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to Costa Mesa any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by Costa Mesa or its authorized representative, at no additional cost to the Costa Mesa.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to Costa Mesa may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250, *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs Costa Mesa of such trade secret. Costa Mesa will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. Costa Mesa shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090, *et seq.* During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the authorized Costa Mesa representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the Costa Mesa's representative, regarding any Services rendered under this Agreement at no additional cost to Costa Mesa. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to Costa Mesa, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of Costa Mesa and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of Costa Mesa while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of Costa Mesa and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

[Signature blocks begin on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this *Professional Services Agreement (SF Rehabilitation Program - AmeriNational Community Services, Inc.)* to be executed by and through their respective authorized officers, as of the date first above written.

CITY:

CITY OF COSTA MESA,
a California municipal corporation
[REDACTED]

Date: 6-29-15

BY: Gary Armstrong, AICP
Economic Development and Development
Services Director/Deputy Chief Executive Officer
[REDACTED]

Date: 6/30/15

BY: Thomas R. Hatch, Chief Executive Officer

AUTHORITY:

COSTA MESA HOUSING AUTHORITY,
a public body corporate and politic
[REDACTED]

Date: 6/30/15

Thomas R. Hatch, Executive Director

ATTEST:

[REDACTED]

City Clerk/Housing Authority Secretary

Date: 6/30/15

APPROVED AS TO FORM:

[REDACTED]

City Attorney/Housing Authority General Counsel

Date: 6/29/15

APPROVED AS TO INSURANCE:

[REDACTED]

Risk Management

Date: 6/29/15

APPROVED AS TO CONTENT:

[REDACTED]

Project Manager

Date: 6/29/15

[Signature blocks continue on next page]

CONSULTANT:

AMERINATIONAL COMMUNITY SERVICES, INC.,
a Minnesota corporation

REDACTED

Date: 6-24-15

Adrienne Thorson, CEO
REDACTED

Date: 6-26-15

Michael Torres, President and COO
REDACTED

Taxpayer ID Number

EXHIBIT A

SCOPE OF SERVICES Single-Family Rehabilitation Deferred Payment Loans

Loan Processing and Underwriting

Consultant agrees to provide experienced loan processing and underwriting services to meet the complex needs of Costa Mesa for the Single-Family Rehabilitation Deferred Payment Loan Program (“Program”), both for existing loans provided by Costa Mesa prior to the Effective Date of this Agreement and for new loans, if any, provided by Costa Mesa prior to the Effective Date of this Agreement. Consultant shall work with Costa Mesa to streamline all phases of loan production, from loan processing to closing, and for funds disbursement, and continuing through loan servicing for increased speed and efficiency.

Loan Application and Preliminary Analysis

Costa Mesa will continue to undertake and handle the loan application and underwriting of prospective applicants for new loans, if any, to be issued by Costa Mesa under the Program. As and if requested, Consultant will assist in the underwriting and evaluation of potential new loans to be issued by Costa Mesa, which services may include, as and when requested by Costa Mesa the following:

Underwriting Assistance

Upon receipt of an approval to proceed, Consultant will order applicable outside services such as a title report, appraisal, credit report and verifications. Once the firm cost of rehabilitation is known (a contractor bid has been awarded) a final underwriting analysis will be prepared, addressing the following items:

- ▶ Affordability (Debt to Income Ratio Analysis)
- ▶ Current and past credit history
- ▶ Financial interest in the property (Loan to Value)
- ▶ Status of title to secure lien position

Upon receipt of verifications and reports, a Final Loan Recommendation (FLR) will be prepared and sent to the City for approval and funding.

Loan Document Preparation

Once a Program new loan has been approved, Costa Mesa shall forward to Consultant a Request for Loan Documents containing required information to complete the preparation of loan documents. In accordance with the loan document request, Consultant shall prepare and forward the following documents within five (5) business days for Costa Mesa’s execution:

- ▶ Deed of Trust
- ▶ Promissory Note
- ▶ Truth in Lending Disclosure Statement
- ▶ Request for Notice of Default and Sale
- ▶ Notice of Right to Cancel
- ▶ Control Instructions
- ▶ Declaration of Covenants, Conditions, and Restrictions (CC&Rs)
- ▶ Other documents as agreed to with Costa Mesa

Once the documents are executed by the borrower, the Deed of Trust, CC&Rs and Request for Notice are returned to Consultant for recordation with the County Recorder. Following the recording of the Deed of Trust, CCR&Rs and Request for Notice, Consultant shall confirm that Costa Mesa's second lien position is secure by updating title (when approved by Costa Mesa).

Loan Servicing for Deferred Loans

1. Payment of Property Taxes: At Costa Mesa's request, Consultant will monitor the timely payment of property taxes. Tax service will be required to monitor payment of property tax.
2. Insurance Monitoring: At Costa Mesa's request, Consultant will notify the insurance agent in writing that Consultant is monitoring premium payments and that we are to be made aware of delinquencies or cancellations.

Account Inquiries

Borrowers and Costa Mesa will have 24-hour electronic access to their loan information via AmeriNational's Website at www.amerinational.net. Continuous access to all loan account information is also provided during normal working hours through our toll free customer service telephone lines. In addition, we can provide hard copy account payment histories or other information through facsimile transmission or email. When requested by a borrower, AmeriNational will provide, without charge, a detailed statement of all transactions relating to the borrower's loan.

Additional Portfolio Management Services

1. Loan Payoff Quotations, Satisfactions, Reconveyances: Consultant shall provide Loan Payoff Quotations, and at Costa Mesa's request will perform Satisfactions and Reconveyances of Mortgage at the borrower's expense for any Program loan.

2. 1098 Tax Forms: Pursuant to IRS regulations and, on behalf of Costa Mesa, Consultant will submit required 1098 tax form for any and all borrowers paying interest on any Program loan.

3. Year-End Account Summary: Consultant shall prepare and submit to Costa Mesa each year a year-end account summary statement if there has been activity on their account. The report will indicate principal and interest outstanding and payoff information, if any, for the applicable year.

Loan Transfer

In the event Costa Mesa requires Consultant to transition loans back to Costa Mesa or to another Servicer, Consultant shall gather and package all loan files (hard-copy and/or electronic copy) for shipment. Consultant has an in-house IT department that is dedicated to the maintenance and enhancement of its proprietary loan servicing system. Consultant's IT department will work with Costa Mesa's staff to electronically transmit servicing data in an agreed upon format.

Property Conditions Profile and Affidavit of Owner

1. Property Conditions Profile:

If requested by Costa Mesa, Consultant will utilize the services of its outside vendor to perform a site visit to an owner's property to determine the outer condition of the dwelling and the condition of any detached structures and grounds. Two photos will be taken to document the condition of the property; provided however, that Consultant does not and will not, at any time, enter upon the owner's private property.

If requested by Costa Mesa, property profiles shall rate (good, fair, poor) the condition of the property, and also comment on the following: roof type, property type, structure color, neighborhood condition, construction type, environmental hazards, and status of utilities.

If the dwelling appears vacant or abandoned, it will be noted in the report.

Property profiles may be ordered by Costa Mesa with any frequency desired, e.g., once every two years, once every three years, etc.

2. Affidavit of Owner:

If requested by Costa Mesa, Consultant will forward an instructional letter and Affidavit of Owner to a borrower. The Affidavit requires the owner to affirm continued compliance with all provisions of the promissory note and/or rehabilitation agreement. Such provisions may include, but are not limited to, the following:

- ▶ Continued residence
- ▶ Timely payment of property taxes

- ▶ Ongoing hazard and flood insurance coverage
- ▶ Timely payment of all sums due to superior lien holders
- ▶ Proper maintenance of the property
- ▶ Non-subordination

Fund Disbursement Services

To ensure that Costa Mesa's loan proceeds are used in the manner intended by the Program policies and procedures, Consultant provides a unique funds disbursement service, which meets the needs of both Program staff and Costa Mesa's finance department.

Total loan proceeds are forwarded to Consultant and held in trust for disbursement of funds according to Costa Mesa's requirements. Consultant shall deposit the funds into a custodial trust account at an FDIC insured bank. Costa Mesa's finance department will be required to only issue one check or initiate one EFT, and Consultant will disburse an unlimited number of checks for construction contractor stage payments, multiple equipment purchases, and/or stage disbursements of working capital loans and grants, all pursuant to the Program requirements.

Consultant is experienced with the multiple funding sources used in housing and economic development programs. Consultant will prioritize the disbursement of funds from several funding sources associated with a single loan and work write-up for the rehabilitation at the subject property and will provide corresponding reports to be used as official subsidiary journals to Costa Mesa's finance department.

Consultant agrees to provide a prompt turnaround of stage payments to ensure delivery of checks back to Costa Mesa or directly to the payee(s) within 48 hours of Costa Mesa's request. When requests are made by 11:00 a.m. (Eastern Time), the check will be cut the same day.

The funds disbursement services will be based on the following detailed steps:

1. Opening Account: Upon loan approval, Consultant will open a borrower account that includes borrower and project information. Costa Mesa will then forward loan proceeds and completed Control Instructions to Consultant. The Control Instructions should include the following information:
 - a. Owner/Borrower(s) name
 - b. Contractor(s)
 - c. Property/job site address
 - d. Amount of funds being held
 - e. Instructions on how funds are to be disbursed
 - f. Original signatures of Owner/Borrower and Costa Mesa representative
2. Disbursement Process: When requested by Costa Mesa, Consultant will provide check disbursements to parties designated by Costa Mesa in connection with Program loans. Such disbursements are outlined in an Authorization for Payment, which includes

information regarding the amount of the disbursement, the parties to be paid, signatures of Costa Mesa representatives authorized to make disbursements, and the Owner/borrower's authorizing signatures. Consultant will verify proper authorization to disburse funds and that amounts are correct and in agreement with original Control Instructions and Authorized Signatures. All checks shall be sent to Costa Mesa, unless otherwise directed by Costa Mesa. Checks will be issued payable to the contractor(s), or other payee(s) as directed by Costa Mesa. Funds will be disbursed from Costa Mesa's account the same day when the request is received by 11:00 a.m. (Eastern Time) Requests received after 11:00 a.m. are processed the next business day.

3. Change Orders: Change Orders are used to make a change in the project amount or payment schedule. A Change Order may occur at any time during a project.
4. Contingency: Additional funds may be added to a project in anticipation of unforeseen construction costs. Consultant will hold contingency at Costa Mesa's request and release funds upon receipt of an Authorization for Payment. This process is subject to the Costa Mesa's financial policies and procedures.
5. Retention Fund: As applicable, Consultant shall hold a retention fund of at least 10%. Retention is then paid out sixty-five (65) days after the recording of the Notice of Completion. Based on the Program policies and procedures, the retention will be paid out upon receipt of an Authorization for Payment.
6. Recording the Notice of Completion: As applicable, after Costa Mesa's final inspection on a rehabilitation project, a Notice of Completion is executed by the Owner/borrower and forwarded to Consultant for recording with the County Recorder. Consultant shall mail the Notice of Completion by certified mail within two (2) business days after receipt.
7. Reports and Record Keeping: Consultant will provide Costa Mesa a detailed monthly Account Status Report of all transactions completed and the balances remaining in each account. Records will be maintained for all accounts and are available to Costa Mesa upon request.
8. Account Close Out: After payout of all funds in the account, excess funds will be disbursed according to Costa Mesa's instructions. Consultant will forward a Final Closing Statement to Costa Mesa, comprising a complete record of all transactions in one report. Consultant will also forward a copy of the report to the borrower for their records, if requested by Costa Mesa.

AmeriNational Community Services
 8121 East Florence Avenue
 Downey, California 90240
 (562) 927-6686

Program Guidelines / Loan Servicing

Date:

Client Name: City of Costa Mesa and Costa Mesa Housing Authority Client #: 470 Group #: 470

Amortized Loans Only Deferred Loans Only

Project Name: SF Rehab Program
 Project Name:
 Project Name:
 Project Name:

Project #: 470
 Project #:
 Project #:
 Project #:

A. Services Provided

	Yes	No
Loan Processing and Underwriting	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Loan Document Preparation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Funds Disbursement	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
AmeriNational to Prepare Subordinations	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tax Monitoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tax Escrows	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Insurance Monitoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Insurance Escrows	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delinquency Follow Up / Loss Mitigation	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Credit Reporting	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bankruptcy Monitoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>
AmeriNational to prepare Forbearance Agreements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
AmeriNational to prepare Foreclosure Agreements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
AmeriNational to prepare Payoff Demands	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Agency Approval required for Payoff Demands	<input checked="" type="checkbox"/>	<input type="checkbox"/>
AmeriNational to prepare Substitution of Trustee / Deed of Reconveyance (form/template to be approved by Costa Mesa)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Termination of Regulatory Agreement	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Borrower Affidavits	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Property Condition Profiles	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Entire Year End Reporting for New Portfolio Transfer	N/A	

B. Billing Selection (N/A)

C. Level of Service (N/A)

E. Special Instructions (N/A)

F. Reporting

1. Reports with remittance sent to:

Client Name	City of Costa Mesa and Costa Mesa Housing Authority
Department	Housing and Community Development
Address	PO Box 1200
City, State, Zip	Costa Mesa, CA 92628-1200
Attention	Jacqueline Y. Reeves, Management Analyst

G. Agency Contact Information
Costa Mesa Contact Information

General Contact

Name: Jacqueline Y. Reeves; Title: Management Analyst
Phone: 714/754-4870 Fax: 714/754-4913 Email Address: JACQUIE.REEVES@costamesaca.gov

Tax and Insurance Contacts

Primary Contact: Name: Jacqueline Y. Reeves; Title: Management Analyst
Phone: 714/754-4870 Fax: 714/754-4913 Email Address: JACQUIE.REEVES@costamesaca.gov

Secondary Contact: Name: Willa Bouwens-Killeen; Title: Principal Planner
Phone: 714/754-5153 Email Address: WILLA.BOUWENS-KILLEEN@costamesaca.gov

Delinquency Follow Up / Loss Mitigation Contacts

Primary Contact: Name: Jacqueline Y. Reeves; Title: Management Analyst
Phone: 714/754-4870 Fax: 714/754-4913 Email Address: JACQUIE.REEVES@costamesaca.gov

Secondary Contact: Name: Willa Bouwens-Killeen; Title: Principal Planner
Phone: 714/754-5153 Email Address: WILLA.BOUWENS-KILLEEN@costamesaca.gov

Authorized to Approve Forbearance and Foreclosure Agreement

Name: Willa Bouwens-Killeen; Title: Principal Planner
Phone: 714/754-5153 Email Address: WILLA.BOUWENS-KILLEEN@costamesaca.gov

Payoff and Reconveyance Contacts

Primary Contact: Name: Jacqueline Y. Reeves; Title: Management Analyst
Phone: 714/754-4870 Fax: 714/754-4913 Email Address: JACQUIE.REEVES@costamesaca.gov

Secondary Contact: Name: Willa Bouwens-Killeen; Title: Principal Planner
Phone: 714/754-5153 Email Address: WILLA.BOUWENS-KILLEEN@costamesaca.gov

Authorized to Approve Payoff Demands

Primary Contact: Name: Jacqueline Y. Reeves; Title: Management Analyst
Phone: 714/754-4870 Fax: 714/754-4913 Email Address: JACQUIE.REEVES@costamesaca.gov

Secondary Contact: Name: Willa Bouwens-Killeen; Title: Principal Planner
Phone: 714/754-5153 Email Address: WILLA.BOUWENS-KILLEEN@costamesaca.gov

Authorized to Sign Substitution of Trustee / Deeds of Reconveyance

Thomas R. Hatch, Chief Executive Officer and Executive Director
Phone: 714/754-5107 Email Address: THOMAS.HATCH@costamesaca.gov

EXHIBIT B

FEE SCHEDULE

Loan Processing and Underwriting:

1. Ordering credit, title or appraisal (as/if requested by Costa Mesa)
Due 30 days after receipt of application, plus outside costs*. \$35.00
 2. Loan Processing through the completion of the Preliminary Risk
Analysis (PRA) to the Client, plus outside costs (as/if requested by
Costa Mesa)
Due within 60 days of submission of PRA \$160.00
 3. Loan Processing, underwriting and production of Final Loan Recommendation
(FLR), plus all remaining direct loan outside costs*.
Due 60 days from FLR or fund control opening. \$180.00
- *Outside costs as used herein include, but are not limited to, title, credit, and appraisal. These costs are passed through from outside vendors and are subject to marketplace increases. Such costs shall be reasonable and competitive with other similar services provided in the general vicinity of the project.

Loan Cancellation Fee: Within 60 days of a loan being considered cancelled, in addition to all outside costs, the fee due will be the sum of all fees for tasks (1-3 above) completed, plus one-half of the fee for the task in process at the time of cancellation.

Loan Documentation Preparation Services:

1. A fee of \$175 plus pass through costs, if any for the preparation of all loan documents. For each project for which credit, title, or appraisals have been supplied by Consultant, but which is thereafter canceled without performance of loan document preparation: a cancellation fee of \$59.00 plus outside costs for title and/or credit reports. A project will be considered cancelled if a Loan Document Request is not received within sixty (60) days of ordering a title report, credit report, or any other outside service.
2. A fee of \$20 will be charged for each document re-drafted at the request of Costa Mesa due to actions by Costa Mesa.

Funds Disbursement

A fee of \$130 per each new Program loan. Full funds for the project/loan must be received by Consultant upon Costa Mesa's approval of a new loan. These funds will be deposited into a custodial trust account at an FDIC insured bank.