

**CONTRACT FOR TECHNICAL ASSISTANCE SERVICES
BETWEEN THE CITY OF MINOT, NORTH DAKOTA AND JOHN ZAKIAN**

This contract is made and entered into by and between the City of Minot, a North Dakota municipal corporation, whose principal address is P.O. Box 500, 515 Second Avenue SW, Minot, ND 58702-5006 (the "City"), and John Zakian, an individual whose principal address is 3598 Acushnet Avenue, New Bedford, MA 02745

RECITALS

WHEREAS, the City of Minot, North Dakota suffered severe damage as a result of flooding which occurred in 2011;

WHEREAS, the City of Minot, North Dakota received grant funds from the State of North Dakota and the United States Office of Housing and Urban Development to recover and build resilience in the wake of the 2011 flood;

WHEREAS, the state and federal grant funds received by the City of Minot have, are, and will continue to be used by the City to achieve the City's recovery and resilience goals consistent with the grant terms;

WHEREAS, the City retained John Zakian as an employee to provide technical assistance and support for the administration of federal and state funds;

WHEREAS, John Zakian resigned from the employee position with the City effective September 30, 2021, but is willing to continue to provide transitional technical assistance and support for 6 months after his employment concludes;

WHEREAS, John Zakian possesses the experience and expertise necessary to ensure there is no loss of progress towards achieving the project goals the City is financing with state and federal grant money;

NOW, THEREFORE, the City of Minot and John Zakian in consideration of the mutual covenants and agreements contained herein do mutually agree as follows:

1. **Technical Assistant.** The City of Minot hereby retains John Zakian to act as a technical assistant to provide transitional technical assistance and support for the administration and project delivery the Community Development Block Grant – National Disaster Resilience (CDBG-NDR) and Community Development Block Grant – Disaster Recovery (CDBG-DR) Allocation #1, funded in whole or in part by State and/or Federal funding, all as more specifically outlined in the scope of services, attached and incorporated by reference into this contract as Exhibit A.
2. **Services for the Benefit of the City of Minot.** It is hereby intended and agreed by and between the parties hereto that the purpose and benefit of this contract is intended for the City of Minot, a North Dakota municipal corporation.

3. Scope of Services. John Zakian will provide services to or on behalf of the City of Minot, North Dakota as summarized in Exhibit A to this contract.
4. Fees. Except as may otherwise be provided herein, the City of Minot agrees to pay John Zakian for all services provided pursuant to this contract at the rates detailed in Exhibit B, which is attached and incorporated by reference into this contract.
5. Independent Contractor. John Zakian is an independent contractor under this contract and is not a City employee for any purpose.
6. Compliance with Public Records Laws. John Zakian understands that, City must disclose to the public upon request any records it receives from John Zakian. John Zakian further understand that any records obtained or generated by John Zakian under this contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. John Zakian agrees to contact City promptly upon received a request for information under the public records law and, at no additional expense to City, comply with City's instructions on how to respond to the request.
7. Community Development Block Grant Requirements. John Zakian agrees to comply with all of the Community Development Block Grant Program Requirements as set forth in Exhibit C, which is attached and incorporated by reference into this contract, and will continue to comply with any such requirements as they are amended by the federal, state, or city governments.
8. Compensation. For and in consideration of the Services rendered by John Zakian, and subject to the contract amount and rate schedule provisions of Exhibit B, the City shall pay John Zakian for his services completed based on City Council authorized projects to be completed using funds from CDBG-ND and CDBG-DR Allocation #1, with billing to be based on hours per authorized project.
9. Other Charges and Costs. John Zakian will incur various costs and expenses in rendering the services required under this contract which shall be reimbursable by the City in the following manner and amounts:

No per diem meal expenses shall be billed except in the event of travel required outside the City of Minot, in such case, per diem meals will be billed at the rate of \$35.00 per day. Mileage will be billed at the applicable IRS rate. Except as otherwise provided herein, any expenses incurred for retaining additional consultants or professionals will be billed at actual cost and such additional consultants or professionals shall be approved by the City.
10. Monthly Itemized Statements Required. John Zakian shall prepare a monthly statement for fees, costs and expenses incurred; such statements shall indicate the basis of the fees, including a brief description of the activities and applicable grant to be charged,

hours worked, and hourly rates. Reimbursable costs and expenses shall be separately itemized.

11. Subcontracting or Assignment. The experience, knowledge, capability and reputation of John Zakian was a substantial factor for the City to enter into the contract. Therefore, John Zakian shall not contract with other person(s) or entity to perform, in whole or part, services required under this contract without the written approval of the City except as otherwise provided herein. No other professional services to be provided under this contract shall be transferred, assigned, or subcontracted without the prior written approval of the City.
12. Insurance. John Zakian agrees to have and keep in force during the term of this contract and for one (1) year following the termination of the services under this contract, the following insurances:
 1. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per occurrence.
 2. Professional errors and omissions with minimum limits of \$1,000,000 per claim and in the aggregate, Contractor shall continuously maintain such coverage during the contact period and for three years thereafter. In the event of a change or cancellation of coverage, Contractor shall purchase an extended reporting period to meet the time periods required in this section.
 3. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
13. Indemnification. John Zakian agrees to indemnify the City and their officers and employees against and will hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property losses, costs, penalties, obligations, errors, omissions or liabilities that may be asserted or claimed by any person, firm or entity arising out of or in connection with the work, operations or activities of John Zakian arising from the faulty acts or omissions of John Zakian, or arising from John Zakian's performance of or failure to perform any term, provision, covenant condition of this contract. It is further agreed and understood by and between the parties hereto that such indemnification does not extend to the fault, negligence, or willful misconduct of persons other than John Zakian.
14. Notices. Notices required pursuant to this contract shall be given by personal service upon the party to be notified, or by delivery of same into the custody of the United States Postal Service, or its lawful successor, postage prepaid and addressed as follows:

John Zakian
3598 Acushnet Avenue
New Bedford, MA 02745

City of Minot
Attn: City Manager
P.O. Box 5006
Minot, ND 58702-5006

Service of notice by personal service shall be deemed to have been given as of the date of such personal service. Notice given by deposit in the United States Post Office shall be deemed to have been given three (3) consecutive business days following deposit of the same in custody of said postal service. Either party hereto may, from time to time, by written notice to the other, designate a different address or person, which shall be substituted for that specified above.

15. Nondiscrimination. In connection with the performance of this contract, John Zakian shall not discriminate against any employee or applicant for employment because of race, religion, marital status, color, sex, handicap, or national origin.
16. Term and Termination. This contract shall commence October 4, 2021 and shall remain in full force and effect until April 1, 2022, unless terminated earlier as provided herein. Either the City or John Zakian may terminate this contract without cause, with thirty (30) days written notice given to the other party. In the event of termination, John Zakian shall assist to the fullest extent possible in the orderly transition of all pending matters to the City. In the event of termination, John Zakian shall be entitled to be paid for all professional fees for all work completed and costs incurred through the date of cessation of his technical assistance, including without limitation, proration of costs and expenses to the date of such cessation.
17. Conflicts of Interest. John Zakian has no present or contemplated business, professional, personal, or other interest that would conflict in any manner with the performance of his obligations under this contract or which could be adverse to the City of Minot, North Dakota. John Zakian agrees that if any actual or potential conflict arises under this contract, he shall immediately inform the City in writing of such conflict.
18. Severability. If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain that term.
19. Entire Agreement and Modification. This Agreement, including the Attachments, constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by both Parties.

20. **Interpretation of Contract and Forum.** This contract shall be construed and interpreted as to both the validity and performance of the parties in accordance with the laws of the State of North Dakota. In the event of any dispute hereunder, the forum shall be the District Court, Ward County, North Dakota.

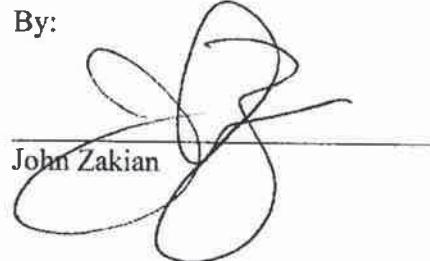
IN WITNESS WHEREOF, the parties have hereto executed this contract as of the effective date of the contract.

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Dated: 9/27, 2021.

JOHN ZAKIAN

By:

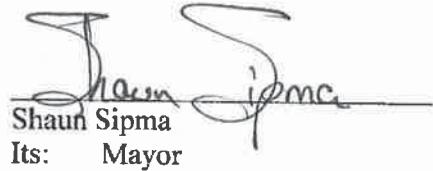


John Zakian

Dated: 10/25, 2021.

CITY OF MINOT

By:



Shaun Sipma
Its: Mayor

EXHIBIT A

SCOPE OF SERVICES

1. Provide technical assistance and support to the City related to matters concerning the City's grant funding under the CDBG-NDR grant and CDBG-DR Allocation #1.
2. Advise the City on all matters relating to administration and project delivery for CDBG-NDR and CDBG-DR Allocation #1, including, but not limited to the following services:
 - a. Training of staff on federal rules and regulations in the administration and compliance requirements of CDBG grant oversight and supervision;
 - b. Ongoing support and guidance on decisions related to acquisitions;
 - c. Implementation of remaining projects, including the CTE and Broadway Circle
 - d. Technical Assistance, as needed, with Substantial and Non-Substantial amendments;
 - e. Addressing compliance questions concerning ongoing projects;
 - f. Providing technical assistance as needed involving overall project delivery/grant administration.
 - g. Work with the City's Disaster Recovery Program Manager, City Attorney and/or other designee by the City Manager, and the City's property acquisition program in legal proceedings, which result from eminent domain or other CDBG related activities.
 - h. Provide to the City any other CDBG related technical assistance services, on an as-needed basis, as directed by the City.
3. In all matters related to the foregoing services, John Zakian agrees that he shall not represent any person or entity whose interests are adverse to that of the City, nor whose interests could cause a conflict of interest for the City or himself.

EXHIBIT B

FEE SCHEDULE

The following fee schedule is agreed to by John Zakian and the City of Minot:

John Zakian	\$95.00/hr.
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John Zakian may work a maximum of 28 hours per week for a maximum of 26 weeks with a total cap of \$70,000 total compensation under this contract.

Holly Burckhard

From: John Zakian <jzakian@aol.com>
Sent: Wednesday, October 27, 2021 1:55 PM
To: Holly Burckhard
Cc: Jenna Zelinski; Callie Burns
Subject: Re: Funding Source for Consulting Contract

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This message has originated from an **External Source**.

Please use proper judgement and caution when opening attachments, clicking links, or responding to this email.

I will bill per hour specific with activity description and identify it as either CDBG-NDR or Allocation #1. So far, it is also CDBG-NDR. John

-----Original Message-----

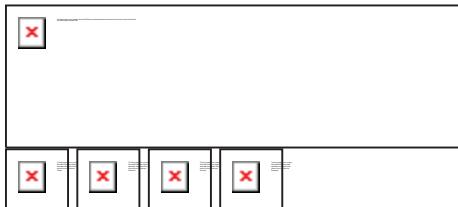
From: Holly Burckhard <holly.burckhard@minotnd.org>
To: John Zakian <jzakian@aol.com>
Cc: Jenna Zelinski <jenna.zelinski@minotnd.org>; Callie Burns <callie.burns@minotnd.org>
Sent: Wed, Oct 27, 2021 1:12 pm
Subject: Funding Source for Consulting Contract

John,

In the City Council memo for your consulting contract, it states that the \$70,000 would be coming from NDR funding. However, it also states that you'll be consulting in both CDBG and NDR processes so I wanted to confirm if we should charge your time all to the NDR Admin line, or, the NDR Admin line in addition to the 1st Allocation Admin line. Please let me know!

Thank you,

Holly Burckhard
City of Minot, Invoice Accounting Clerk
Office Phone: 701-857-4754



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