

CITY COUNCIL REPORT



Meeting Date: January 23, 2024
General Plan Element: ***Housing***
General Plan Goal: ***Seek a variety of housing options.***

ACTION

Adopt Resolution No. 13013 authorizing: Contract 2024-016-COS, an intergovernmental agreement between the City of Scottsdale and the Housing Authority of Maricopa County for Independent Entity Services for Belleview I Properties Project-Based Vouchers (PBV) units to perform inspections and rent reasonableness.

BACKGROUND

In 2013, the City of Scottsdale acquired and rehabilitated a property known as the Belleview I Properties located at 7220 and 7224 E. Belleview Street, Scottsdale, Arizona for the public purpose of affordable housing through the Community Development Block Grant Funds. Belleview I Properties consists of eight (8) units and is maintained and operated by a property management company. The property is rented to residents at or below 60% of the Area Median Income and subject to defined rental limits designated by Housing and Urban Development (HUD).

In the ten years Scottsdale has owned Belleview I properties, none of the units have been rented to a Housing Choice Voucher (HCV) participant until 2023. HUD guidance was sought when an HCV participant moved into Belleview I Properties because in this instance the City is the landlord and when the Scottsdale Housing Agency disburses the Housing Assistance Payment (HAP) the funds would be paid directly to the City.

Based on HUD's guidance, when an HCV participant leases a unit, an independent entity must complete the inspections and rent reasonableness study.

ANALYSIS & ASSESSMENT

Policy Implications

The City of Scottsdale Housing Agency is coordinating independent entity services from the Housing Authority of Maricopa County to perform inspections and a rent reasonableness study when an HCV participant leases in Belleview I Properties. This is defined in the Scottsdale Housing Agency's Administrative Plan Chapter 15.

Action Taken See Marked Agenda - Adopt Resolution No. 13013 - YES - 6/1, with Councilmember Graham dissenting.

RESOURCE IMPACTS

Available funding:

The independent services for inspection and rent reasonableness study will be paid for through the Housing Choice Voucher (HCV) Administrative Fees included the FY 2023/24 Adopted Budget. Expected cost is less than \$500 FY 23/24 as there are no other open units at Belleview and this expense can be absorbed with the HCV Administrative funds already budgeted.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt Resolution No. 13013 authorizing:

Contract 2024-016-COS, an intergovernmental agreement between the City of Scottsdale and the Housing Authority of Maricopa County for Independent Entity Services for Belleview I Properties PBV units to perform inspections and rent reasonableness.

RESPONSIBLE DEPARTMENT(S)

Community Services Division – Business Operations Department

STAFF CONTACT(S)

Judy Doyle, Community Services Assistant Executive Director; Bryan Bundy, Community Services Business Operations Manager; and Mary Witkowski, Community Assistance Manager.

APPROVED BY

Judy Doyle

Judy Doyle, Community Services Assistant Executive Director
480-312-2691, jdoyle@scottsdaleaz.gov

1/2/24

Date

Ana Lia Johnson

Ana-Lia Johnson, Acting Budget Director
480-312-7896, anjohnson@scottsdaleaz.gov

1/2/24

Date

William B Murphy

William Murphy, Assistant City Manager
480-312-7954, bmurphy@scottsdaleaz.gov

1/2/24

Date

ATTACHMENTS

1. Resolution No. 13013
2. Contract No. 2024-016-COS

RESOLUTION NO. 13013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SCOTTSDALE AND THE HOUSING AUTHORITY OF MARICOPA COUNTY FOR THE PROVISION OF INDEPENDENT ENTITY SERVICES FOR THE BELLEVUE I PROPERTIES.

WHEREAS, Arizona Revised Statutes Sections 11-951, *et seq.* provide that public agencies may enter into intergovernmental agreements for the provision of services or joint or cooperative action:

WHEREAS, Article 1, Section 3-1 of the City Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies including counties such as Maricopa County;

WHEREAS, the City of Scottsdale acquired and rehabilitated a property known as the Bellevue I Properties located at 7220 and 7224 E. Bellevue Street, Scottsdale, Arizona for the public purpose of affordable housing through the Community Development Block Grant Funds;

WHEREAS, in 2023 the City of Scottsdale, for the first time, leased a unit in the Bellevue I Properties to a Housing Choice Voucher (HVC) participant;

WHEREAS, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) requires a public housing agency to use an independent entity to perform unit inspections and rent reasonableness determinations when leasing to a HVC participant;

WHEREAS, the Housing Authority of Maricopa County is authorized to perform unit inspections and rent reasonableness determinations pursuant to HOTMA;

WHEREAS, the City has determined that utilizing the Housing Authority of Maricopa County to perform unit inspections and rent reasonableness determinations is cost effective and efficient;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. The City Council authorizes, approves and directs the Mayor to execute, on behalf of the City, Contract No. 2024-016-COS, an Intergovernmental Agreement for Bellevue I Properties PBV Units Independent Entity Services between the City of Scottsdale and the Housing Authority of Maricopa County.

Section 2. The City Council further authorizes the City's Human Services Director, or designee, to execute all other documents and take such other actions as are necessary to carry out the intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this _____ day of _____, 2024.

CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

Ben Lane, City Clerk

David D. Ortega, Mayor

APPROVED AS TO FORM:

Karen Tyler
Sherry R. Scott, City Attorney
By: Karen Tyler, Senior Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT
FOR BELLEVUE I PROPERTIES PBV UNITS INDEPENDENT ENTITY SERVICES
BETWEEN THE CITY OF SCOTTSDALE
AND THE HOUSING AUTHORITY OF MARICOPA COUNTY**

This Intergovernmental Agreement ("Agreement") is entered into this ____ day of _____, 2024, between the City of Scottsdale; Scottsdale Housing Agency ("SHA"), a municipal corporation, and the Housing Authority of Maricopa County ("HAMC"), a political subdivision of the State of Arizona. The Parties to this Agreement may be referred to collectively as "Parties".

RECITALS

The Housing and Community Development Act of 1974 (HCDA), Section 105 (a)(4), is the primary authority for determining eligibility of potential Community Development Block Grant Activities. Under 24 CFR 570.201 (a) and 570.207 the City of Scottsdale acquired and rehabilitated a property known as the Bellevue I Properties located at 7220 and 7224 E. Bellevue Street, Scottsdale, Arizona ("Bellevue I Properties") for the public purpose of affordable housing.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 ("HOTMA") was signed into law (Public Law 114-201, 130 Stat. 782). HOTMA made numerous changes to statutes that govern HUD programs, including Section 8 of the United States Housing Act of 1937 ("the Act") (42 U.S.C. 1437f). On January 18, 2017, HUD published a notice (82 FR 5458) to implement various Housing Choice Voucher ("HCV") provisions, including a new statutory definition of PHA-owned housing (§105 of HOTMA) and changes to the Project Based Voucher ("PBV") program (§106 of HOTMA). The provisions went into effect on April 18, 2017. HUD PHA Notice 2017-21 ("PIH Notice") provides implementation guidance on the HOTMA changes to both the definition of PHA-owned housing (for project-based and tenant-based vouchers) and determining whether a PHA will be required to use an independent entity to perform certain functions concerning the project as it pertains to conversions to the PBV program.

SHA is an official PHA authorized by HUD and required to have an independent entity to perform certain functions as it pertains to HCV lessees of the Bellevue I Properties under the PBV program.

The Parties desire to partner in the delivery of the required independent entity functions.

NOW, THEREFORE, the Parties, in consideration of the mutual covenants and promises contained in this Agreement agree to the below Terms & Conditions.

TERMS & CONDITIONS

1. PURPOSE

The purpose of this Agreement is for the HAMC to deliver the following independent entity functions required by 42 U.S.C. 1437f(o)(11) to SHA:

- a. Bellevue I Properties PBV Unit Inspections in accordance with 42 U.S.C. 1437f(o)(8).

- b. Rent reasonableness for Bellevue I Properties PBV Units in accordance with 42 U.S.C. 1437f(o)(10).

2. COMPENSATION

The following compensation or fee for services rendered are:

\$125.00 per Bellevue-PBV Initial Unit Inspection
\$75.00 per Bellevue-PBV Unit Re-inspection
\$30.00 per Bellevue-PBV Rent Reasonableness Study

3. NOTICES, INVOICES AND REPORTS

All notices, reports and/or invoices submitted pursuant to this contract shall be in writing and delivered to the attention of the following person representing the SHA:

SHA Contact: Mary Witkowski, Community Assistance Manager.
Address: 6535 E Osborn Drive BLDG 8, Scottsdale AZ 85251.
Email: mwitkowski@scottsdaleaz.gov

Invoices: All Invoices must include a detailed itemized list of services including date, type of service, fee for services and forwarded to the SHA within 30 days of any fee for services rendered. Payment of any invoice must be within 30 days from date of receipt of invoice.

All notices submitted to the HAMC pursuant to this contract shall be in writing and mailed to the attention of:

HAMC Contact: Gerald Minott, Executive Director
Address: 8910 N. 78th Ave. Peoria, AZ 85345 **Phone:** 602-744-4542
Email: g.minott@maricopahousing.org

4. TERM

The term of this Agreement shall begin on the date first written above and will remain in effect through January 31, 2025 unless terminated as provided herein. If agreed by the parties, this Agreement may be extended two times for a period of one year each time.

5. OBLIGATIONS OF THE HAMC

HAMC will perform all independent entity functions associated with Paragraph 1 for SHA designated Bellevue I Properties PBV units under the terms of this Agreement.

Timely report in accordance with Paragraph 3 open invoices for services rendered.

Upon receipt of notice to perform services (Paragraph 2), HAMC shall provide a written response to requested services within 15 days.

6. OBLIGATIONS OF THE SHA

The SHA will allow and provide access to HAMC to complete National Standards for the Physical Inspection of Real Estate ("NSPIRE") inspections for reported Bellevue I Properties PBV units.

Timely report changes, modifications or alterations in the unit address, unit count of Bellevue I Properties PBV Units within the jurisdiction of the SHA.

Without interference in completing NSPIRE Inspections, SHA will coordinate and notify families of scheduled Bellevue I Properties PBV unit inspections.

SHA shall allow at least 15-day advance notice of any inspection and/or any other services provided under Paragraph 2.

7. TERMINATION FOR CONVENIENCE

During the term of this Agreement, either party may terminate this Agreement upon thirty (30) days' prior written notice (the "Notice of Termination"). The Notice of Termination shall specify the date upon which such termination becomes effective.

8. TERMINATION

Upon termination of this Agreement for any reason, any subsequent or outstanding unit inspections or rent reasonableness study will be the responsibility of SHA.

9. SUBCONTRACTING

SHA acknowledges HAMC may subcontract for NSPIRE Inspection services. Any further subcontracting will not be permitted without the written notification from HAMC to the SHA within a reasonable time prior to unit inspection.

10. ASSIGNMENT

Neither party shall assign this Agreement, in whole nor in part, without the prior written consent of the other party; any attempted assignment without such consent, will be null and void.

11. INDEMNIFICATION

SHA and HAMC shall indemnify, defend, save and hold harmless the other party and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, in whole or in part, by the negligent or willful acts or omissions of each party or any of its owners, officers, directors, agents, employees or subcontractors.

12. INDEPENDENT CONTRACTOR STATUS

The relationship of the parties is that of independent contractors. Accordingly, the employees of each party is not entitled to any benefits provided to employees of the other party including, but not limited to, health benefits, enrollment in a retirement system, paid time off or other rights afforded the other party's employees. If any employees or subcontractors of a party assert a claim for wages or other employment benefits against the other party, the party's employees or subcontractors who asserted the claim will defend, indemnify and hold harmless the other party from all such claims.

13. SEVERABILITY

If any provision of this Agreement is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law. Any changes in the governing laws, rules and regulations during the term of this Agreement shall apply, but do not require an amendment to the Agreement.

14. SURVIVING PROVISIONS

All provisions which, by the terms of reasonable interpretation, set forth rights and obligations that extend beyond termination of this Agreement will survive and remain in full force and effect. Termination of the Agreement will not release any party from any liability or obligation arising prior to the date of termination.

15. INTERPRETATION

No provision of this Agreement is to be interpreted for or against either party because that party or that party's legal representative drafted such provision, but this Agreement is to be construed as if drafted by all parties hereto.

16. COMPLIANCE WITH LAWS

SHA and HAMC shall comply with all federal, state and local laws, rules, regulations, standards, and executive orders, applicable to this Agreement and PBV regulations including, but limited to, those specifically set forth in this Section. The laws and regulations of the State of Arizona shall govern the rights of the parties' performance of this Agreement and any dispute hereunder. Any action relating to this Agreement shall be commenced and maintained in a court of competent jurisdiction in Maricopa County, Arizona.

- A. This Agreement is subject to cancellation by either party pursuant to A.R.S. § 38-511.
- B. This Agreement is subject to the conflict of interest requirements set forth in A.R.S. § 38-504.
- C. To the extent provisions of A.R.S. § 41-4401 are applicable to this Agreement:
 - 1. Each party warrants it is in compliance with A.R.S. § 23-214(A).

2. Each contractor and subcontractor shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A). The provisions of this Subsection C must be included in any contract either party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.
3. A breach of a warranty under Subsection C shall be deemed a material breach of the Agreement that is subject to penalties up to and including termination of the Agreement.
4. Each party retains the legal right to inspect the papers of any contractor employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty in this Subsection C.

17. PROVISIONS REQUIRED BY LAW

Any provision required by law to be in this Agreement is part of this Agreement as if fully stated herein.

18. WAIVER

No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision shall not be deemed to be a waiver of any breach of the same or any other provision hereof.

19. EXCULPATORY PROVISIONS

SHA acknowledges that this Agreement imposes no contractual obligation upon Maricopa County; and that in the event of a default under this Agreement, of any kind whatsoever, SHA will look solely to HAMC or HAMC related parties to the transactions contemplated in this Agreement for remedy or relief; and that neither Maricopa County nor any Supervisor, elected official, officer, agent or employee of Maricopa County will be liable to SHA, or any successor in interest to SHA in any way.

20. ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements between parties, constitutes the entire understanding and agreement of the parties.

Remainder of page intentionally blank.

IN WITNESS WHEREOF, this Agreement for services is hereby agreed to by the parties. The parties and their representatives signing this Agreement are duly authorized agents of the parties and have full authority to enter into this Agreement on behalf of the parties. This Agreement will be in full force and effect only after it has been approved and executed by the duly authorized party representatives.

CITY OF SCOTTSDALE,
an Arizona municipal corporation

ATTEST:

David D. Ortega, Mayor

Ben Lane, City Clerk

Housing Authority of Maricopa County

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of Arizona Revised Statutes § 11-952(D), each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

FOR AND ON BEHALF OF
CITY OF SCOTTSDALE

Karen Tyler
Sherry R. Scott, City Attorney
By: Karen Tyler, Senior Assistant City Attorney

Housing Authority of Maricopa County

Date: 12/26/2023

Date: _____

From: Doyle, Judy
Sent: Tuesday, January 23, 2024 11:50 AM
To: City Council
Cc: Thompson, Jim; Murphy, Bill; Walther, Jeff - 592; Witkofski, Mary; Lane, Benjamin
Subject: Re: 1/23/2024 CC Meeting - Consent No. 6 (Bellevue I Properties Independent Entity Services Intergovernmental Agreement (IGA))

To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the public body. Members of the public body may reply to this message, but they should not send a copy of the reply to other members.

Honorable Mayor David D. Ortega and Members of the City Council,

A member of the Council had some questions on consent item number 6 (Bellevue I Properties Independent Entity Services Intergovernmental Agreement (IGA) for tonight's January 23, City Council meeting.

Bellevue is like other multi-family properties with the only difference being the units have rental caps provided by Housing and Urban Development (HUD) as this property was purchased with Community Development Block Grant (CDBG) Funds. The city contracts with Dunlap & Magee Property Management Inc. to serve as the landlord of the property, which includes screening renters, collecting rent for the city, ensuring compliance with the lease terms, etc.

Going forward staff plans to use Housing Choice Vouchers (HCV) at the property as renters lease out. Bellevue is an opportunity for the city to use its vouchers to provide affordable and safe housing opportunities for lower-income families, senior citizens, and persons with disabilities.

Bellevue does not provide housing for Title 42 immigrants (HUD requires renters to be US citizens) or those experiencing homelessness from *The Zone* in Phoenix.

Below were the specific questions.

- **How many families served since inception?** 12 families.
- **Average duration of stay for participants?** 3-4 years.
- **What is participants' city of origin? i.e., how many previously had Scottsdale address vs elsewhere?** Scottsdale, Tempe, Avondale - 4 residents resided in Scottsdale prior to moving into Bellevue.
- **Any police calls to units since 2013? If yes, how many and their nature please?** Yes. There were 117 calls for service over 10 years from January 2013 - December 2023. Some examples of the call types include: disturbances (23); emergencies (22); welfare checks (12); vehicle related (9); theft (4); parking related (4); emergency drug (2); animal related (2); sex crimes (2); burglary (1); etc. Over a 10-year period, the number of calls is not abnormal for a similar complex or apartments within the city.
- **Who background-checks participants?** If the individual is an HCV participant, the Scottsdale Housing Agency, as well as Dunlap & Magee, run background checks. If the individual is not an HCV participant, it is the responsibility of Dunlap & Magee to run background checks. There has only ever been one HCV participant, which began in May 2023.

- **Any participants with legal records?** Per Dunlap & Magee, they do not have any residents that had a criminal background at move in. Also, important to note the Fair Housing guidance from HUD for owners of publicly assisted housing cannot be denied assistance solely on criminal history.

Please let me know if you have any questions.

Thank you.

Judy Doyle, MBA
Community Services Assistant Executive Director
City of Scottsdale | Community Services
480-312-2691 | jdoyle@scottsdaleaz.gov

From: Doyle, Judy
Sent: Tuesday, January 23, 2024 3:43 PM
To: City Council
Cc: Thompson, Jim; Murphy, Bill; Witkofski, Mary; Lane, Benjamin
Subject: Re: 1/23/2024 CC Meeting - Consent No. 6 (Bellevue I Properties Independent Entity Services Intergovernmental Agreement (IGA))

To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the public body. Members of the public body may reply to this message, but they should not send a copy of the reply to other members.

Honorable Mayor David D. Ortega and Members of the City Council,

I received additional questions from a member of the Council regarding consent item number 6 (Bellevue I Properties Independent Entity Services Intergovernmental Agreement (IGA) for tonight's January 23, City Council meeting.

Why are the Bellevue Units not exclusive to Scottsdale residents? When the property was acquired, it was noted to lease to low-income eligible tenants. There is nothing in the original Land Use Restrictive Agreement about only accepting Scottsdale residents. Refusing to rent to someone who is not a Scottsdale resident could result in a fair housing complaint.

Why is the question of using independent services for inspections now required? In the 10 years Scottsdale has owned Bellevue, none of the units have ever been rented to a Housing Choice Voucher (HCV) participant until 2023. When the HCV participant moved in, we sought guidance from HUD to ensure we were complying appropriately. When the city entered the original contract with Dunlap & Magee Property Management Inc. they created a trust set up in the city's name using the city's Employer Identification Number (EIN). Because of this trust, we are essentially paying ourselves (from our EIN to our EIN) with the HCV participant. HUD determined if we are paying ourselves federal funds directly, an independent third party must complete the inspections and rent reasonableness studies. Therefore, the Scottsdale Housing Agency is requesting to coordinate independent entity services from the Housing Authority of Maricopa County to perform inspections and rent reasonableness studies for HCV participants.

The city will consider the pros/cons of continuing with use of a trust as the contract with the Property Management company expires (June 2024).

Please let me know if you have any further questions.

Thank you.

Judy Doyle, MBA
Community Services Assistant Executive Director
City of Scottsdale | Community Services
480-312-2691 | jdoyle@scottsdaleaz.gov