



Oakland Housing
Authority

RFP #22-018 Certified Public Accounting Services

Addendum #2

Date issued and released June 16, 2022

Changes to the RFP:

RFP Issued:	May 17, 2022
Questions Due:	May 25, 2022 by 10:00 AM (PST)
Email Questions to:	ccgs@oakha.org (indicate above RFP #22-018 in "Subject")
Addendum Issued: <i>(if applicable)</i>	June 2, 2022 June 16, 2022 by 5:00 PM (PST) (Posted on the Authority's website and Housing Agency Marketplace)
Proposal Due	June 14, 2022 July 5, 2022 @ 10:00AM (PST) <u>Proposers MUST register with Housing Agency Marketplace in order to submit a proposal.</u>

Responses to Questions:

The following questions were submitted by the deadline and are answered in this addendum.

Question #1: Please list out which lower tiers require audits that are subject to compliance reporting requirements (e.g., HUD major or minor program, CalHFA/HCD funding, etc.).

Answer #1: HUD, HCD, lenders and investors are subject to reporting requirements.

Question #2: For those subject to HUD requirements, will you need the auditor to complete REAC submissions?

Answer #2: Yes, REAC submissions will need to be completed.

Question #3: For those subject to CalHFA/HCD requirements, will you need the auditor to complete the HDS filing?

Answer #3: No, OHA will not need the auditor to complete the HDS filing.

Question #4: Can you please provide copies of the most recent audits/reviews and tax returns (at least one set for “owner LIHTC housing” and one for “general partner” roles, and if there are compliance requirements, audits for those entities as well).

Answer #4: The prior year reports and tax returns are internal documents and will be provided to the selected firm.

Question #5: Generally, how many audit adjustments are proposed for each entity?

Answer #5: It depends on the entity. It might not have any adjustments or have several adjustments.

Question #6: Will OHA be preparing financial statements or expect the auditor to prepare them?

Answer #6: OHA expects the selected vendor to prepare financial statements.

Question #7: What year of LIHTC compliance is each lower tier in?

Answer #7: Depends on the entity: some are still in the beginning of LIHTC compliance period, most are close to the end or out of the compliance period.

Question #8: Do the limited partners of the lower tiers require Forms K-2 and K-3 to be completed?

Answer #8: No, the limited partners of the lower tiers do not require Forms K-2 and K-3 to be completed.

Question #9: Are there certain elements that OHA would like to see improved for the audit/tax return process?

Answer #9: No, there are no elements that OHA would like to see improved.

Question #10: Would OHA agree to waive Section 3 requirements if we do not expect any additional hiring or subcontracting is required?

Answer #10: Although any resulting contract for certified public accounting services under this RFP is not required to be reported as part of total Section 3 labor hours pursuant to 24 CFR Part 75, such hours are permitted to be reported and OHA will encourage such reporting.

Question #11: Can you confirm that on page 41 of the pdf (or 40 of 98) that the Bonding/Financial Information section would not be applicable since this is not a construction type of contract?

Answer #11: The Bonding/Financial Information is not applicable for these services.

Question #12: Can you please confirm if HUD-5369-A is applicable to the contract?

Answer #12: Yes, HUD-5369-A is applicable to this contract.

Question #13: Will we be allowed to propose the Scope of Services language for Exhibit A to the contract (referenced on page 55 (54 of 98)) once the contract is awarded (based on audit standards)? Or will this need to be incorporated as part of the proposal?

Answer #13: Typically and ideally, the scope of services language in the contract is incorporated as part of proposal, but it is also possible to propose the Scope of Services language once the contract is awarded.

Question #14: Can you please provide a copy of OHA's Information Technology Ethics Policy for review?

Answer #14: Please see updated Confidentiality Agreement attached.

Sample Contract changes:

Please see revised contract



Oakland Housing
Authority

RFP #22-018 Certified Public Accounting Services

Addendum #2

Date issued and released June 16, 2022

Proposer hereby acknowledges this addendum:

Name of Firm: _____

Authorized Signature: _____

Date: _____

Acknowledgement of this Addendum MUST be included with your proposal.

CONTRACT FOR _____ SERVICE
BY AND BETWEEN
THE HOUSING AUTHORITY OF THE CITY OF OAKLAND
AND _____.

This CONTRACT FOR _____ SERVICE (“Contract”) is made on _____ (“Effective Date”) by and between the **HOUSING AUTHORITY OF THE CITY OF OAKLAND**, a public entity corporate and politic (“AUTHORITY”) and _____, _____, a California _____, (“CONTRACTOR”). AUTHORITY and CONTRACTOR are collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, AUTHORITY is a Housing Authority duly created, established and authorized to transact business and exercise its powers, all under and pursuant to the provision of the Housing Authorities Law which is Part 2 of Division 24 of the California Health and Safety Code commencing with Section 34200 et seq.;

WHEREAS, pursuant to the Housing Authorities Law, AUTHORITY is authorized to make and execute contracts and other instruments necessary or convenient to exercise its powers;

WHEREAS, CONTRACTOR was the successful bidder in connection with the AUTHORITY’s Invitation for Bids [OR RFP] No. _____ for _____ dated _____, 2020 incorporated herein by this reference (“RFP No. 00-000”); and

WHEREAS, CONTRACTOR has the expertise, special skills, knowledge and experience to perform the duties set out herein and in the [RFP No. 00-000], and agrees to provide such services to AUTHORITY.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. CONTRACTOR shall furnish all labor, material and equipment as outlined and specified in (i) the Scope of Services attached hereto as Exhibit A and incorporated herein by this reference, (ii) RFP No. 00-000 incorporated herein by this reference; and (iii) CONTRACTOR's proposal submitted to the AUTHORITY on _____ in connection with [RFP No. 00-000] which is incorporated herein by this (collectively, "Service" or "Services").

1.1 CONTRACTOR shall, as required by applicable code, law or regulation, provide all Services.

1.2 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Contract and CONTRACTOR agrees it can properly perform this work;

1.3 Acceptance by the AUTHORITY of CONTRACTOR's performance under this Contract does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Contract.

1.4 CONTRACTOR represents and maintains that it is skilled in the professional calling necessary to perform all services, duties and obligations required by this Contract and Exhibit "A," to fully and adequately provide all services and the AUTHORITY relies upon this representation. CONTRACTOR shall perform the services and duties in conformance to and consistent with the applicable professional standards. CONTRACTOR further represents and warrants to the AUTHORITY that it has all licenses, permits, qualifications and approvals of whatever nature that are legally required to practice its profession. CONTRACTOR further represents that it shall keep all such licenses and approvals in effect during the Term of this Contract.

1.5 HUD Requirements. Contractor agrees to comply with all relevant HUD requirements, including those set forth in the General Conditions for Non-Construction Contracts, form HUD-5370-C (11/30/2023), attached hereto as **Exhibit "C"** and incorporated as if fully set forth herein. In the event of a conflict between the provisions in the body of this Contract and **Exhibit "C"**, the provisions set forth in **Exhibit "C"** shall prevail.

2. PERIOD OF PERFORMANCE. The term of this Contract shall commence on the Effective Date and continue in effect until _____, 2020 unless earlier terminated pursuant to paragraph 13 below (“Term”).

2.1 Extension. At the discretion of Authority, the AUTHORITY shall have the option to extend this Contract for ____ (__) **additional consecutive one (1) year periods**. The exercise of each extension must be first approved in writing by the Authority and memorialized in a written amendment to this Contract executed by the Parties hereto. The cumulative period of performance under this Contract (including the initial Term) shall not exceed a total of **five (5) years with a completion/termination date of _____**. All applicable indemnification provisions in this Contract shall survive the termination of this Contract.

a. **First Option Term**. The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of _____, 202_ through _____, 202_ (“First Option Term”) by giving written notice to the Contractor prior to the expiration of the Initial Term, unless earlier terminated as provided herein.

b. **Second Option Term**. The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of _____, 202_ through _____, 202_ (“Second Option Term”) by giving written notice to the Contractor prior to the expiration of the First Option Term, unless earlier terminated as provided herein.

c. **Third Option Term**. The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of _____, 202_ through _____, 202_ (“Third Option Term”) by giving written notice to the Contractor prior to the expiration of the Second Option Term, unless earlier terminated as provided herein.

3. COMPENSATION/PAYMENT.

3.1 The AUTHORITY will compensate CONTRACTOR for all services rendered, products provided and costs and expenses incurred for the Service as provided pursuant to this Contract and the Payment Schedule attached hereto as **Exhibit "B"** and incorporated herein by this reference.

3.2 The maximum total amount of compensation paid to the CONTRACTOR by the AUTHORITY pursuant to this Contract during the initial Term, including any extensions,

shall not exceed the maximum total sum of _____ Dollars (\$ _____ .00), including any expenses. *The total amount of compensation paid by AUTHORITY to CONTRACTOR during the initial Term, plus any AUTHORITY approved extensions, for the Services, shall not exceed the maximum sum of _____ Dollars (\$00,000.00), including all expenses.* The AUTHORITY is not responsible for any fees or costs above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products, unless agreed to by the AUTHORITY in writing.

3.3 CONTRACTOR shall invoice the AUTHORITY once service are rendered in accordance with Exhibits “A” attached hereto. AUTHORITY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice.

3.4 The AUTHORITY’s obligation for payment of this Contract beyond the current fiscal year end is contingent upon and limited by the availability of AUTHORITY funding from which payment can be made. No legal liability on the part of the AUTHORITY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, AUTHORITY shall immediately notify CONTRACTOR in writing, and this Contract shall be deemed terminated and have no further force and effect.

3.5 No payroll or employment taxes of any kind will be withheld or paid by Authority on behalf of Contractor. Authority will not treat Contractor as an employee with respect to the Contract services for any purpose, including federal and state tax purposes. Contractor understands and agrees that it is Contractor's sole responsibility to pay all taxes required by law, including self-employment social security tax. Authority will issue an IRS 1099 Form, or other appropriate tax reporting document, to Contractor for the Contract Services.

4. ADDITIONAL SERVICES. The CONTRACTOR shall not perform any additional services or incur additional expenses, outside of this Contract, without first receiving the express written consent to proceed from the AUTHORITY in the form of an amendment to this Contract.

5. AMENDMENTS TO WORK PROGRAM. The Executive Director of AUTHORITY, or designee, is authorized, in his/her sole and absolute discretion, to approve and execute changes to the Contract to the extent such changes do not cause the total Contract amount to exceed \$150,000. Such changes shall be mutually agreed upon by and between the Executive Director and CONTRACTOR and shall be incorporated in written amendments to this Contract.

6. INSPECTION OF SERVICES. All performances under this Contract shall be subject to inspection by the AUTHORITY. CONTRACTOR shall provide adequate cooperation to AUTHORITY representative to permit him/her to determine CONTRACTOR's conformity with the terms of this Contract. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Contract or [RFP No. 00-000], the AUTHORITY shall have the right to require CONTRACTOR to perform the services or provide the products in conformance with the terms of this Contract and/or [RFP No. 00-000] at no additional cost to the AUTHORITY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the AUTHORITY shall have the right to: (1) require CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of this Contract; and/or (2) if applicable, reduce the Contract price to reflect the reduced value of the services performed or products provided. The AUTHORITY may also terminate this Contract for default.

CONTRACTOR shall establish adequate procedures for self-monitoring to ensure proper performance under this Contract; and shall permit an AUTHORITY representative to monitor, assess or evaluate CONTRACTOR's performance under this Contract at any time upon reasonable notice to CONTRACTOR.

7. INDEPENDENT CONTRACTOR. CONTRACTOR is, for purposes relating to this Contract, an independent contractor and shall not be deemed an employee of the AUTHORITY. It is expressly understood and agreed that CONTRACTOR (including its employees, agents and subcontractors) shall in no event be entitled to any benefits to which AUTHORITY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be

no employer-employee relationship between the Parties; and CONTRACTOR shall hold AUTHORITY harmless from any and all claims that may be made against AUTHORITY based upon any contention by a third party that an employer-employee relationship exists by reason of this Contract. It is further understood and agreed by the Parties that CONTRACTOR in the performance of this Contract is subject to the control or direction of AUTHORITY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

8. SUBCONTRACT FOR WORK OR SERVICES. No contract shall be made by CONTRACTOR with any other party for furnishing any of the work or services under this Contract without the prior written approval of the AUTHORITY; but this provision shall not require the approval of contracts of employment between CONTRACTOR and personnel assigned under this Contract, or for Parties named in [RFP No. 00-000] and agreed to under this Contract.

9. SERVICE-CONTRACT ACT. For all service contracts in excess of \$2,500, whose principal purpose of which is to furnish services through the use of “service employees”, both Parties hereby agree to comply with the Service Contract Act, as amended (41 U.S.C. 6701, et seq.), the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, et seq.), and related Secretary of Labor regulations and instructions (29 CFR Parts 4, 6, 8, and 1925).

10. INDEMNIFICATION. CONTRACTOR shall indemnify and hold harmless the AUTHORITY, its directors, officers, Board of Commissioners, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based upon any act, omission, or services of Contractor, its officers, employees, subcontractors, independent contractors, agents or representatives relating to this Contract, including property damage, bodily injury, or death (Authority employees included). Contractor shall defend, at its sole expense, all costs and fees including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or legal action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of Authority; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to Indemnitees as set forth herein. Contractor's obligation hereunder shall be satisfied when Contractor has provided to Authority the appropriate form of dismissal relieving Authority from any liability for the action or claim involved.

The specified insurance limits required in this Contract shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

Authority does not, and shall not, waive any rights that it may possess against Contractor because of acceptance by Authority, or the deposit with Authority, of any insurance policy or certificate required pursuant to this Contract. This hold harmless, indemnification and defense provision shall apply regardless of whether or not any insurance policies determined to be applicable to the claim, demand, damage, liability, loss, cost or expense. The indemnity obligations of Contractor contained in this Contract shall survive the termination and expiration of this Contract.

11. INSURANCE. Without limiting or diminishing the CONTRACTOR's obligation to indemnify or hold the AUTHORITY and the Indemnitees harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Contract. As respects to the insurance section only, the AUTHORITY herein refers to the Housing Authority of the City of Oakland its directors, officers, Board of Commissioners, employees, elected or appointed officials, agents or representatives as Additional Insureds.

11.1 Workers' Compensation. If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include

Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the AUTHORITY.

11.2 Commercial General Liability. Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, employment practices liability, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR's performance of its obligations hereunder. Policy shall name the AUTHORITY, as Additional Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit.

11.3 Vehicle Liability. If vehicles or mobile equipment are used in the performance of the obligations under this Contract, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit. Policy shall name the AUTHORITY, as Additional Insureds.

11.4 Professional Liability. CONTRACTOR shall maintain Professional Liability Insurance providing coverage for the CONTRACTOR's performance of work included within this Contract, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If CONTRACTOR's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Contract and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or 3) demonstrate through Certificates of Insurance that CONTRACTOR has maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

11.5 Cyber Insurance. CONTRACTOR shall maintain Cyber Liability Insurance, with limits not less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Housing Authority requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Housing Authority.

11.6 General Insurance Provisions - All lines.

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the Authority Risk Manager. If the Authority's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- b. The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$2,500,000 per occurrence each such retention shall have the prior written consent of the Authority Risk Manager before the commencement of operations under this Contract. Upon notification of self-insured retention unacceptable to the AUTHORITY, and at the election of the Authority's Risk Manager, CONTRACTOR's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Contract with the AUTHORITY, or 2)

procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

- c. CONTRACTOR shall cause CONTRACTOR's insurance carrier(s) to furnish the AUTHORITY with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the Authority Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) calendar days written notice shall be given to the AUTHORITY prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Contract shall terminate forthwith, unless the AUTHORITY receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the AUTHORITY has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section, showing that such insurance is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

- d. It is understood and agreed to by the Parties hereto that the CONTRACTOR's insurance shall be construed as primary insurance, and the AUTHORITY's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
- e. If, during the term of this Contract or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Contract, including any extensions thereof, exceeds two (2) years; the AUTHORITY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Contract, if in the Authority Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.
- f. The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the AUTHORITY.
- g. CONTRACTOR agrees to notify AUTHORITY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Contract.

12. GENERAL.

12.1 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations, in connection with performance of the services set forth in this Contract. CONTRACTOR will comply with all applicable AUTHORITY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

12.2 CONTRACTOR shall be liable for any damage caused by CONTRACTOR to any AUTHORITY properties during CONTRACTOR's performance of the services or authorized extra work, and such damage shall be repaired at the CONTRACTOR's sole expense.

12.3 CONTRACTOR represents and warrants that Contractor is registered to do business in the State of California with the California Secretary of State.

12.4 CONTRACTOR acknowledges that Authority may enter into agreements with other contractor or consultants for services similar to the services that are the subject of this Contract or may have its own employees perform services similar to the services contemplated by this Contract.

12.5 Without limiting Contractor's hold harmless, indemnification and insurance obligations set forth herein, in the event any claim or action is brought against the Authority relating to Contractor's performance or services rendered under this Contract, Contractor shall render any reasonable assistance and cooperation which the Authority shall require.

13. TERMINATION.

13.1 AUTHORITY may terminate this Contract without cause at any time upon written notice served upon the CONTRACTOR stating the extent and effective date of termination.

13.2 AUTHORITY may, upon five (5) days written notice, terminate this Contract for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Contract or fails to make progress so as to endanger performance and does not immediately cure such failure. In the event of such termination, the AUTHORITY may proceed with the work in any manner deemed proper by AUTHORITY.

13.3 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Contract on the date specified in the notice of termination; and
- (b) Transfer to AUTHORITY and deliver in the manner as directed by AUTHORITY any data, estimates, graphs, summary reports, or other related materials and or records, as may have been prepared or accumulated by CONTRACTOR in performance of services, whether completed or in

progress or which, if the Contract had been completed or continued, would have been required to be furnished to AUTHORITY.

13.4 After termination, AUTHORITY shall make payment only for CONTRACTOR'S performance, which has been completed and accepted by AUTHORITY, up to the date of termination in accordance with this Contract.

13.5 CONTRACTOR's rights under this Contract shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Contract by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Contract. In such event, CONTRACTOR shall not be entitled to any further compensation under this Contract.

13.6 If the termination is due to a default by CONTRACTOR the AUTHORITY may take over the work and prosecute the same to completion by contract or otherwise. Following discontinuance of services, the AUTHORITY may arrange for a meeting with CONTRACTOR to determine what steps, if any, CONTRACTOR can take to adequately fulfill its requirements under this Contract. In its sole and absolute discretion, AUTHORITY's representative may propose an adjustment to the terms and conditions of the Contract, including the Contract price. Such contract adjustments, if accepted in writing by the Parties, shall become binding on CONTRACTOR and shall be performed as part of this Contract. In the event of termination due to a default by CONTRACTOR this Contract shall terminate immediately upon CONTRACTOR's receipt of the notice of termination. Termination of this Contract for cause may be considered by the AUTHORITY in determining whether to enter into future contracts with CONTRACTOR.

13.7 The rights and remedies of the AUTHORITY provided in this Section are in addition to any other rights and remedies provided by law, in equity or under this Contract.

13.8 CONTRACTOR may terminate this Contract upon 30 days prior written notice to the Authority (a) if Contractor determines in its professional judgment that it is unable to complete the services in accordance with applicable law or professional standards, (b) for reasonable cause (including failure of the Authority to provide the information or cooperation

necessary for successful performance of the services), or (c) if the Authority's account becomes 60 days or more overdue.

14. FORCE MAJEURE. If either Party is unable to comply with any provision of this Contract due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as Acts of God, acts of war, civil disorders, or other similar acts, such Party shall not be held liable for such failure to comply, provided the other Party receives written notice of such force majeure event no later than five (5) calendar days after commencement of such force majeure event.

15. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE. It is understood and agreed that Contractor shall comply with California Government Code, Section 7550. Government Code, Section 7550 provides in part that when the total cost for work performed for a local Authority by nonemployees of such Authority exceed Five Thousand Dollars (\$5,000), any document or written report prepared in whole or in part by nonemployees for such Authority shall contain, in a separate section, the numbers and dollar amount of all contracts and subcontracts relating to the preparation of such document or written report.

16. CONFLICT OF INTEREST. CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Contract. CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Contract. CONTRACTOR agrees to inform the AUTHORITY in writing of all CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the AUTHORITY's interests.

CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Contract.

CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to AUTHORITY employees.

17. ADMINISTRATION. The AUTHORITY Executive Director (or designee) shall administer this Contract on behalf of AUTHORITY. _____ shall administer this Contract on behalf of Contractor.

18. ASSIGNMENT. This Contract shall not be delegated or assigned by CONTRACTOR, either in whole or in part, without prior written consent of AUTHORITY. Any assignment or purported assignment of this Contract by CONTRACTOR without the prior written consent of AUTHORITY will be deemed void and of no force or effect.

19. NONDISCRIMINATION. CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, age, religious creed, color, national origin, ancestry, disability (including HIV or AIDS status), medical condition, sexual orientation, marital or domestic partner status, sex or gender identity in the performance of this Contract; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment Practices Act (commencing with Section 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

20. ALTERATION. No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

21. ELIGIBILITY. Services and benefits shall be provided by CONTRACTOR to individuals without reference to their ethnic group identification, race, age, religious creed, color, national origin, ancestry, disability, sexual orientation, marital or domestic partner status, sex or gender identity.

22. LICENSE AND CERTIFICATION. CONTRACTOR verifies upon execution of this Contract, possession of a current and valid license in compliance with any local, State, and Federal laws and regulations relative to the scope of services to be performed under Exhibit A

and [RFP No. 00-000] and that services(s) will be performed by properly trained and licensed staff.

23. CONFIDENTIALITY. CONTRACTOR shall observe all Federal, State and AUTHORITY's regulations concerning confidentiality of records. The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Contract. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; social security numbers, medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; AUTHORITY information or data which is not subject to public disclosure; AUTHORITY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Contract, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Contract. The CONTRACTOR shall promptly transmit to the AUTHORITY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Contract or authorized in advance in writing by the AUTHORITY, any such information to anyone other than the AUTHORITY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

24. WORK PRODUCT. All reports, preliminary findings, or data assembled or compiled by CONTRACTOR under this Contract become the property of the AUTHORITY. The AUTHORITY reserves the right to authorize others to use or reproduce such materials. Therefore, such materials shall not be circulated in whole or in part, nor released to the public, without the direct written authorization of the AUTHORITY except where required by applicable law, regulations or professional standards. Notwithstanding the foregoing, the Contractor's working

papers and internal records shall remain Contractor property in accordance with applicable law and professional standards.

25. RECORDS AND DOCUMENTS. The Contractor, and any sub-consultants or sub-contractors, shall allow all duly authorized Federal, State, and/or Authority officials or authorized representatives access to the work area, as well as all books, documents, materials, papers, and records of the Contractor, and any sub-consultants or sub-contractors, that are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions. The Contractor, and any sub-consultants or sub-contractors, further agree to maintain and keep such books, documents, materials, papers, and records, on a current basis, recording all transactions pertaining to this Contract in a form in accordance with generally acceptable accounting principles. All such books and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records, and supporting detail shall be retained for a period of at least seven (7) years after the expiration of the term of this Contract.

26. NONCONFORMING PAYMENTS. In the event CONTRACTOR receives payment under this Contract which is later disallowed by the AUTHORITY for nonconformance with the terms of the Contract, CONTRACTOR shall promptly refund the disallowed amount to the AUTHORITY on request; or at its option the AUTHORITY may offset the amount disallowed from any payment due to CONTRACTOR.

27. NO PARTIAL DELIVERY OF SERVICES. CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Contract.

28. LABOR STANDARDS. CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

29. JURISDICTION AND VENUE. This Contract shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Contract shall be filed only in the Superior Court of the State of California located in Oakland, California, and the Parties waive any provision of law providing for a change of venue to another location.

30. WAIVER. Any waiver by AUTHORITY of any breach of any one or more of the terms of this Contract shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term thereof. Failure on the part of the AUTHORITY to require exact, full and complete compliance with any terms of this Contract shall not be construed as in any manner changing the terms hereof, or estopping AUTHORITY from enforcement hereof.

31. SURVIVABILITY OF TERMS. Provisions of this Contract that are not fully performed or are not capable of being fully performed as of the date of termination will survive termination of this Contract.

32. NOTICES. Any notice or other communication required or permitted under this Contract shall be sufficiently given if delivered in person or sent by one of the following methods, (1) registered U.S. mail, return receipt requested (postage prepaid); (2) certified U.S. mail, return receipt requested (postage prepaid); or (3) commercially recognized overnight service with tracking capabilities. Notices or communications shall be deemed properly delivered to the respective Parties at the addresses set forth below, or such other addresses provided by the Parties in writing, and are deemed submitted as of the date personally delivered or two days after their deposit in the Unites States mail postage prepaid, or via overnight service:

Executive Director
Housing Authority_____

_____,California _____

33. MISCELLANEOUS. As used in this Contract, the term CONTRACTOR also includes CONTRACTOR's owners, officers, employees, representatives and agents.

34. SEVERABILITY. If any provision in this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

35. AUTHORITY. The undersigned represents and warrants that he or she has full power and authority to enter into this Contract and to bind Contractor in accordance with the terms of this Contract.

36. NO THIRD PARTY BENEFICIARIES. The Parties to this Contract acknowledge and agree that the provisions of this Contract are for the sole benefit of the Contractor and the Authority, and not for the benefit, directly or indirectly, of any other person or entity, except as otherwise expressly provided herein.

37. ENTIRE CONTRACT. This Contract, including any attachments or exhibits, constitutes the entire Contract of the Parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. In the event of any conflict between this Contract and any other written agreement or acknowledgement, the terms of this Contract shall prevail. This Contract may be changed or modified only by a written amendment signed by authorized representatives of both Parties.

38. NON-LIABILITY OF AUTHORITY OFFICIALS, EMPLOYEES AND AGENTS. No member, official, employee or agent of the Authority shall be personally liable to Contractor in the event of any default or breach by the Authority or for any amount which may become due to Contractor or its successor or on any obligation under the terms of this Contract.

39. ADDITIONAL FEDERAL REQUIREMENTS. Whereas the work and services herein may be subject to applicable Federal, State, and local laws and regulations, including but not limited to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200). Consultant, its contractors, its sub-contractors, consultants, and sub-consultants shall comply with, to the extent applicable, the following requirements:

39.1 Equal Employment Opportunity - Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order

11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR , Subtitle B, chapter 60): The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor shall ensure that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and the employees are treated during employment, without regard to their race color, religion, sex, or national origin. Such actions shall include, but are not limited to, the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the Authority setting forth the provisions of this non-discriminating clause.

39.2 Copeland “Anti-Kickback” Act (18 U.S.C. 874): CONTRACTOR shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Authority will report all suspected or reported violations to the U.S. Department of Housing and Urban Development, (HUD).

39.3 Davis-Bacon Act, as amended (40 U.S.C. sections 3141-3148): When required by Federal program legislation, all construction contracts awarded by the Authority of more than \$2000 shall comply with the Davis-Bacon Act (40 U.S.C. sections 3141-3148) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under the Davis-Bacon Act, CONTRACTOR shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, CONTRACTOR shall be required to pay wages not less than once a week.

The Authority will report all suspected or reported violations to HUD.

39.4 Rights to Inventions Made Under a Contract or Agreement: Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

39.5 Rights to Data and Copyrights: Consultants and Contractors shall comply with all applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR section 27.4, Federal Acquisition Regulations (FAR).

39.6 Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended: in the event this Contract is in excess of \$100,000 Contractor shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations will be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

39.7 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

39.8 Debarment and Suspension (Executive Orders (E.O.s) 12549 and 12689): No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-Procurement Programs in accordance with E.O.s

12549 and 12689, “Debarment and Suspension,” as set forth at 2 CFR part 180. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

39.9 Drug-Free Workplace Requirements: The Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106) CONTRACTOR certifies that they will provide drug-free workplaces. CONTRACTOR certifies that it will comply with drug-free workplace requirements in accordance with the Drug-Free Workplace Act and with HUD's rules at 2 CFR part 182.

39.10 Federal Employee Benefit Clause: No member of or delegate to the congress of the United States shall be admitted to any share or part of this Contract or to any benefit to arise from the same.

39.11 Energy Efficiency: Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).

40. EXHIBITS. The following exhibits are attached hereto and incorporated herein by this reference:

- i. Exhibit A - Scope of Services;
- ii. Exhibit B - Payment Schedule; and
- iii. Exhibit C - Form HUD-5370-C (11/30/2023), General Conditions for Non-Construction Contracts.

(Remainder of Page Intentionally Blank)

(Signatures on next page)

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Contract as of the date set forth above.

“AUTHORITY”

HOUSING AUTHORITY OF THE CITY OF OAKLAND, a public entity corporate and politic

By: _____
Patricia Wells, Executive Director

Date: _____

“CONTRACTOR”

_____, ____ a California

By: _____

Name: _____

Its: _____

Date: _____

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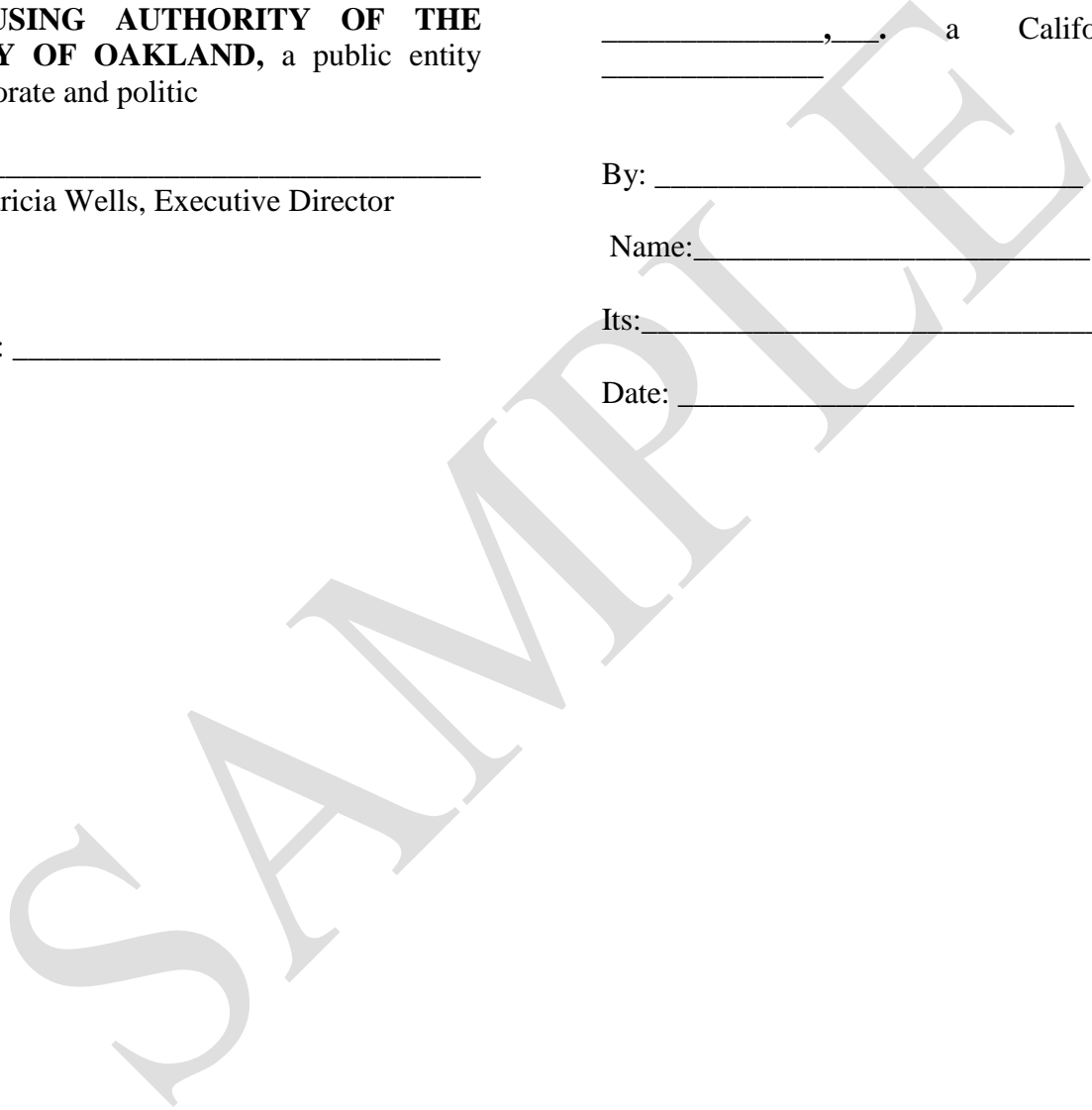


EXHIBIT A
SCOPE OF SERVICES

_____, _____, a California _____ (“Contractor”) shall provide the following services to the Housing Authority of the City of Oakland (“Authority”) as required in the Contract for _____ Services (“Contract”):

1. All services set forth in RFP No. 00-000 for _____ Services.
2. All services set forth in Contractor’s proposal submitted to the Authority on _____ in connection with RFP No. 00-000.

[INSERT SCOPE OF SERVICES]

SAMPLE

EXHIBIT B
PAYMENT SCHEDULE / COST FORM

(behind this page)

SAMPLE

EXHIBIT C

Form HUD 5370-C Section I

General Conditions for Non-Construction Contracts

(behind this page)

SAMPLE

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT ("Agreement") is entered into by ("Consultant") and the Housing Authority of the City of Oakland ("Authority") as of _____, 2022 ("Effective Date"). Consultant and Housing Authority are collectively referred to herein as the "Parties" and individually as a "Party."

RECITALS

- A. Authority is a Housing Authority duly created, established and authorized to transact business and exercise its powers, all under and pursuant to the provision of the Housing Authorities Law which is Part 2 of Division 24 of the California Health and Safety Code commencing with Section 34200 et seq.
- B. In its ordinary course of business, Authority collects and maintains, among other things, personally identifiable information, the confidentiality of which is protected by the Privacy Act of 1974 (5 U.S.C. § 552a), other information relevant to Authority's administration of various affordable housing and tenant based rental assistance programs, Authority's information technology ("Information Technology") infrastructure information, deliberative process, and human resources related information ("HR Information").
- C. Pursuant to that certain Contract for _____ by and between Authority and Consultant dated _____, 2022 ("Contract") Consultant is assisting Authority in _____ and Consultant will have access to confidential information.
- D. Authority wishes to make the data available to Consultant for the administration and implementation of the Contract and to allow Consultant to use the data for the purposes for which the data is being provided or maintained, but only if the data are used and protected in accordance with the terms and conditions stated in this Agreement.

NOW, THEREFORE, upon receipt of such assurance of qualification and capability, it is hereby agreed between Authority and Consultant as follows:

ARTICLE 1. **INFORMATION SUBJECT TO THIS AGREEMENT**

Section 1.1 Recitals. The Recitals set forth above are true and correct and incorporated herein by this reference.

Section 1.2 Definition. The following information shall be referred to herein as the "Confidential Information":

(a) all information or material provided by Authority or its agents that has or could have value or other utility in the business or prospective business of Authority or its subsidiaries, affiliates or associated parties. Confidential Information also includes all information provided by

Authority or its agents of which unauthorized disclosure could be detrimental to the interests of Authority or its subsidiaries, affiliates or associated parties whether or not such information is identified as Confidential Information by Authority. By example and without limitation, Confidential Information includes, but is not limited to, any and all such information of the following or similar nature, whether or not reduced to writing: correspondence, agreements and any other information or procedure that are treated as or designated secret or confidential by Authority,

(b) all tangible or intangible information and materials, in any form or medium, whether provided or disclosed by Authority or an affiliate of Authority, or accessed, observed or otherwise obtained by Consultant that is related to Authority's business, participants, clients (including identities, characteristics and activities), business plans, strategies, forecasts or forecast assumptions, operations, methods of doing business, records, finances, assets, technology (including software, data bases, data processing or communications networking systems), data or information or materials that reveal research, technology, practices, procedures, processes (including deliberative processes), methodologies, know how, or other systems or controls by which Authority's services, applications and methods of operations or doing business are developed, conducted or operated, and all information or materials derived there from or based thereon,

(c) All Authority Information Technology infrastructure information, and

(d) Data collected or maintained by Authority containing personally identifiable information, the confidentiality of which is protected by the Privacy Act of 1974 (5 U.S.C. § 552a) (the "Privacy Act"), Federal HIPPA regulations and State of California Welfare and Instructions Code Section 5328 regarding confidentiality, including, but not limited to the following:

(1) Case notes summarizing communications with applicants, tenants, landlords, clients, or program participants;

(2) Landlord mailing addresses, landlord phone numbers, landlord emails, or other landlord identifying information;

(3) Tenant names, tenant phone numbers, tenant emails, or other tenant identifying information;

(4) Documents related to tenant personal or household income;

(5) Information that would allow the public to discern if a unit occupant participates in a housing assistance program; and

(6) Lease terms, including but not limited to, the total amount of monthly rent due under the lease, amount of monthly rent arrears, penalties, fees, or other utility charges.

(e) The term "personally identifiable information" used herein shall mean personally identifiable information that can be used alone or in conjunction with any other reasonably available information, to identify a specific individual. Personally identifiable

information includes, but is not limited to, an individual's name or the name of that individual's parents or guardians, social security number, driver's license number, identification number, specific home address, biometric records, date of birth, place of birth, or mother's maiden name. Additionally, the definition of the Privacy Act shall include the definition of Personally Identifiable Information contained in U.S. Department of Housing and Urban Development ("HUD") Notice PIH 2015-06, as may be amended, supplemented or superseded by HUD.

Section 1.3 Form of Confidential Information. Confidential Information under this Agreement may be in various forms, including, but not limited to, digital or written format, CD-ROMs, electronic data, hard copy, emails, in-person and virtual communications etc.

Section 1.4 Use of Confidential Information.

(a) Consultant shall not to disclose the Confidential Information or use such Confidential Information for any purpose other than in connection with, and in furtherance of, the Contract, and as permitted by this Agreement. Consultant acknowledges that he/she has and/or will receive access to such information in confidence and may receive or obtain further access to Confidential Information which is not available to the general public, and which is kept confidential. Authority is willing to provide Confidential Information to Consultant under the terms and conditions set forth herein for the purpose of allowing Consultant to implement and administer the Contract. Consultant agrees to protect such Confidential Information from disclosure to anyone other than Authority's Board of Commissioners, authorized employees, advisers, agents, attorneys, financiers and to such entities or persons to whom Consultant or Authority may owe a legal obligation to disclose such information or whose approval is necessary to administer the Contract. Each Party shall implement appropriate measures to protect against unauthorized use of, or access to, the Confidential Information. The Consultant may only use the Confidential Information in a manner and for a purpose consistent with this Agreement and the Contract. In addition, Consultant will comply with all provisions of State of California and federal law as to confidentiality of Confidential Information, including, but not limited the requirements of the Privacy Act of 1974 (5 U.S.C. §552a), Information Practices Act of 1977, the Fair Debt Collections Practices Act, California Public Records Act (Ca. Government Code Section 6250 et seq.), and provide written notice to Authority of any breaches thereof.

(b) Consultant may only disclose the Confidential Information to another party with the Authority's prior written consent, which may be withheld at the sole discretion of Authority; provided, however, all parties receiving Confidential Information shall be bound by the applicable terms of this Agreement. In the event Consultant becomes aware of any threatened or actual incidents concerning unauthorized use of, or access to such Confidential Information, Consultant will take appropriate actions to address all such incidents, including but not limited to notifying Authority, in writing, as promptly as possible, to enable Authority to expeditiously implement its response program. The Consultant will assist Authority in such implementation, and shall proceed diligently to terminate such unauthorized access, curtail such threatened or actual unauthorized use or disclosure, and recover such information and materials. Consultant agrees to cooperate with Authority in every reasonable way to help Authority regain possession of the Confidential Information and prevent any future unauthorized use.

Section 1.5 Protection of Confidential Information. To protect the Confidential Information,

(a) Consultant will hold all Confidential Information received from Authority, its employees, consultants, board members and agents in strict confidence and will take reasonable care to prevent disclosure of such material to others. Upon termination of Consultant's duties, Consultant shall return to Authority, within twenty-four (24) hours of such termination and/or request by Authority, any and all digital or written copies of any Confidential Information in Consultant's possession in whatever form the Confidential Information may exist.

(b) Consultant will not disclose the Confidential Information to others unless expressly authorized by the Executive Director of Authority.

(c) The Consultant shall not use any of the Confidential Information to engage in any activities that would compete with Authority or any of its affiliates without the prior written consent of the Executive Director of Authority.

(d) Consultant will not publish the Confidential Information unless expressly authorized by the Executive Director in writing. Publication of the Confidential Information includes, but is not limited to, posting Confidential Information by written or oral communication, including but not limited to, on social media or other electronic means.

Section 1.6 Exceptions to Obligations.

(a) Consultant shall have no obligation with respect to any information that: (i) became known to Consultant prior to Authority's disclosure of the Confidential Information to Consultant; (ii) is, or subsequently becomes, generally available to the public without Consultant's breach of its obligation under this Agreement; (iii) is obtained by Consultant from a third party having a right to disclose such information; (iv) is independently developed by Consultant; or (v) except as limited in subsection (b) below, is required by law, governmental directive or court order to be disclosed by Consultant.

(b) In the event Consultant is required to disclose any Confidential Information by law, governmental directive or court order, Consultant may comply with such disclosure requirement, unless Authority, at its own expense, is successful in having the effect of such requirement stayed, revised, rescinded or otherwise nullified. In all events, Consultant agrees to promptly notify the Authority's Chief Officer of Program and Finance Administration (COPFA), or Human Resources Director in the event the COPFA is unavailable, if at any time a request or demand of any kind is made to Consultant to disclose any Confidential Information. Authority shall have the right, at its cost, to intervene in any proceeding in which Consultant is being asked to disclose any of the Confidential Information.

Section 1.7 Term. This Agreement is effective as of the Effective Date and shall remain in effect for the duration of the Contract and for 2 years after the termination of such Contract, unless terminated earlier as provided herein.

ARTICLE 2.
LIMIT ON DISCLOSURE

Section 2.1 No other Disclosure. Consultant shall not use or disclose Confidential Information for any administrative purposes unrelated to the Contract nor may the Confidential Information be applied in any manner to change the status, condition, or public perception of any individual on whom Confidential Information is maintained.

Section 2.2 No Publication or Release. Consultant shall not make any publication or other release of Confidential Information listing information regarding individuals even if the individual identifiers have been removed.

Section 2.3 Collection of Additional Information. Except in connection with administration and implementation of the Contract, Consultant shall not use Confidential Information to identify individuals for re- contacting or new information collection unless the Consultant has obtained advance written approval from Authority's Executive Director or designee.

Section 2.4 Disclosures Required by Law. Consultant shall only disclose the Confidential Information as expressly permitted hereunder, unless otherwise required by law.

Section 2.5 Notice of Information Request. Consultant shall notify Authority in writing immediately upon the receipt of legal, investigatory, or other demand for disclosure of Confidential Information.

Section 2.6 Notice of Breach. Consultant shall notify Authority immediately in writing upon discovering any breach or suspected breach of security or any disclosure of Confidential Information to unauthorized parties or agencies

Section 2.7 Criminal Liability. Any person who knowingly or willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be subject to criminal penalties under the Privacy Act and may be subject to prosecution under other applicable statutes. In the event of improper use or disclosure of the Confidential Information, the Consultant agrees to report the incident immediately to Authority in writing and to cooperate fully with Authority. Waiting over 24 hours after learning of an improper disclosure to report to Authority shall be considered a violation of this Agreement.

Section 2.8 Indemnification and Injunctive Relief. Consultant shall save, defend, indemnify and hold harmless Authority, its officials, employees and agents (the "Indemnitees") against liability for any suits, actions, judgments, injuries, damages, expenses, losses, or claim of any character, including attorney's fees, arising from, or relating to the conduct, acts or omissions of Consultant, their officials, employees, partners, agents, contractors or subcontractors in connection with the performance of obligations under this Agreement. The Parties acknowledge that the unauthorized use of Authority's Confidential Information by Consultant, its employees or agents would cause irreparable harm and significant injury to Authority. Consultant further acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure

of the Confidential Information. Accordingly, Consultant agrees that Authority shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. Notwithstanding the foregoing, no Indemnitee shall be indemnified by Consultant against liability for any suits, actions, judgments, injuries, damages, expenses, losses, or claim of any character arising from, or relating to, negligent acts or willful misconduct of the Indemnitee in the performance of its obligations under this Agreement.

Section 2.9 Remedies. Without limiting the indemnification obligations set forth in Section 2.8 above, and in addition to other remedies discussed herein, in the event that Consultant violates this Agreement, Authority will be entitled to: (a) injunctive or mandatory relief against the Consultant including a temporary, preliminary and permanent court order restraining any further breach of this Agreement; (b) monetary damages; and (c) any other legal or equitable remedy or relief.

ARTICLE 3. **SECURITY REQUIREMENTS**

Section 3.1 Maintenance of and Access to Confidential Information.

(a) Consultant shall retain the original version of the Confidential Information at a single location and may make no copy or extract of the Confidential Information available to anyone except Consultant personnel authorized by Authority as necessary for the purpose of implementing and administering the Contract.

(b) Consultant shall maintain Confidential Information (whether maintained on a personal computer or on printed or other material) in a space that is limited to access by authorized Consultant staff.

(c) Consultant shall ensure that access to Confidential Information maintained in computer memory is controlled by password protection. Consultant shall maintain all print-outs, CD-ROMS, or other physical products containing personally identifiable information derived from Confidential Information in locked cabinets, file drawers, or other secure locations when not in use.

(d) Authority shall have the right, at any time, to withdraw Consultant's access to a password and/or change Consultant's password. Consultant shall not share his/her password with anyone.

(e) Consultant shall ensure that all printouts, tabulations, and reports are edited for any possible disclosures of Confidential Information.

(f) Consultant shall, in conjunction with the Authority Information Technology administrator, establish security protections to ensure that Confidential Information cannot be used or taken by unauthorized individuals.

Section 3.2 Retention of Confidential Information.

Consultant shall return to Authority all Confidential Information or destroy the data under Authority supervision or by approved Authority procedures when the analysis, research, or evaluation of the Confidential Information that is the subject of this Agreement and the Contract has been completed or this Agreement terminates, whichever occurs first.

ARTICLE 4.
MISCELLANEOUS

Section 4.1 Termination. AUTHORITY shall have the right to terminate this Agreement, without cause, upon three (3) calendar days prior written notice to Consultant. Authority shall have the right to terminate this Agreement immediately for cause, upon the breach of this Agreement by Consultant.

Section 4.2 Ownership of Confidential Information. All Confidential Information shall remain the property of Authority. By disclosing the Confidential Information to Consultant under the terms and conditions of this Agreement, Authority does not grant any express or implied right or license to Consultant to, or in, Authority's Confidential Information, or in any modification, derivation, enhancement or improvement thereof.

Section 4.3 Amendments. This Agreement may be amended, extended, or terminated by mutual written agreement between the Consultant and Authority.

Section 4.4 Compliance with Laws. Consultant shall comply with all applicable Federal, State and local laws and regulations, in connection with performance under this Agreement.

Section 4.5 No Assignment. The rights, duties and obligations of Consultant under this Agreement are personal to the Consultant and the Consultant may not assign any of Consultant's rights, duties or obligations hereunder. Any assignment or purported assignment of this Agreement by Consultant without the prior written consent of Authority will be deemed void and of no force or effect.

Section 4.6 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

Section 4.7 Waivers. Any waiver by Authority of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term thereof. Failure on the part of Authority to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof, or estopping Authority from enforcement hereof. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Authority, its agents, or employees, but only by an instrument in writing signed by an authorized officer of Authority.

Section 4.8 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. The Exhibits to this Agreement are hereby

incorporated into this Agreement by this reference. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including, but not limited to, California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived by the Parties.

Section 4.9 Survival of Obligations. All obligations created by this Agreement shall survive change or termination of the Parties' business relationship. Termination shall not abrogate Consultant's obligations hereunder for Confidential Information received prior to the date of termination. The nondisclosure provisions of this Agreement shall survive the termination hereof and shall continue until written permission is obtained from Authority releasing Consultant from its confidentiality obligations hereunder.

Section 4.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement. This Agreement shall become effective when the Parties have duly executed and delivered signature pages of this Agreement to each other. Delivery of this Agreement shall be effectuated by electronic communication (including by PDF sent by electronic mail, facsimile or similar means of electronic communication). Any signatures (including electronic signatures) delivered by electronic communication shall have the same legal effect as physically delivered original signatures.

Section 4.11 Venue. This Agreement will be construed and enforced in accordance with the substantive laws of the State of California without regard to choice of law principles in effect in California.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

"AUTHORITY"

HOUSING AUTHORITY OF THE CITY OF
OAKLAND, a public body corporate and
politic

By: _____
Patricia Wells, Executive Director

Consultant certifies and acknowledges that he/she has read and understands the terms and provisions of this Agreement and voluntarily accepts the duties and obligations set forth herein

"CONSULTANT"
[INSERT ENTITY NAME]

By: _____

Name: _____

Its: _____

Date: _____