SAN DIEGO HOUSING COMMISSION

AGREEMENT FOR [SUBJECT MATTER]

WITH

[CONTRACTOR NAME]

($250,000 or Less and Other than Construction, Development, or Maintenance)
Contract No. [NUMBER]

This Agreement, entered into this [# Day] day of [Month] [Year],

between the Commission: SAN DIEGO HOUSING COMMISSION
1122 Broadway, Suite 300
San Diego, California 92101
Tel.: 619-231-9400

and the Contractor: [CONTRACTOR NAME]
[Street Number, Name, and Unit Number]
[City], [State] [Zip]
Tel.: [Phone Number]

is made in accordance with the following terms and conditions:

101. **Definitions**. When capitalized, the terms used in this Agreement shall have the meanings ascribed thereto by the "Schedule of Definitions," attached hereto as Attachment A and incorporated herein in full by this reference, and as otherwise defined by this Agreement, unless the context clearly requires otherwise.

102. **Description of Work**. Contractor shall provide services, supplies, and/or materials to the Commission as specified in the Specifications/Scope of Work.

103. **Term of Agreement**. The term of this Agreement shall be [Begin Date] through [End Date] (the "Initial Term"), as extended pursuant to this Agreement from time to time.

(a) Extensions. Provided that Contractor is not in default under the terms of this Agreement, the Commission may extend the term for one or more periods (each such period, an "Extension Period") totaling no more than ninety (90) days, in a writing signed by the CEO and delivered to Contractor. No single Extension Period shall be less than seven (7) days. The Commission may not extend the term for an Extension Period earlier than sixty (60) days before nor later than eighty-three (83) days after the then-applicable expiration date of the term.

The Commission shall compensate Contractor during such Extension Period on a *pro rata* basis in accordance with Section 104 as in effect on the date of extension of the term in accordance with this Subsection.

(b) Options. The Commission may also extend the term for [Written Number] (Number) additional one (1)-year periods (each such one-year period, an "Option Period") by giving written notice thereof to Contractor prior to the expiration of the then-current term of this Agreement. Compensation to Contractor during any Option Period shall be in the amounts and on the same terms and conditions as provided pursuant to this Agreement during the Initial Term.

(c) Extensions and Options. Nothing contained in this Section shall require the Commission to extend the term

of this Agreement. The options to extend the term granted in this Section exist in favor of and for the sole benefit of the Commission and may be exercised in the Commission's sole and exclusive discretion. During any Extension Period or Option Period, all terms and conditions of the Agreement shall remain in full force and effect except as otherwise specified in this Section or any subsequently executed agreement between the Parties.

104. **Compensation**. The Commission shall compensate Contractor for all services performed and/or supplies and materials supplied pursuant to this Agreement in accordance with the Compensation Terms, which are attached hereto as Attachment D.

(a) Maximum Compensation. Notwithstanding anything in this Section or elsewhere in this Agreement to the contrary, Contractor acknowledges and understands that the Commission shall be under no obligation to compensate or reimburse Contractor for any amounts incurred in excess of [Written Amount] Dollars ($[NUMBER AMOUNT]) ("Maximum Compensation") during the Initial Term, or during any Option Period, unless Attachment D provides for greater compensation or reimbursement during such Option Period. Further, Contractor acknowledges and understands that it shall bear the sole responsibility for monitoring its expenditures and ensuring that any amounts incurred pursuant to this Agreement do not exceed the Maximum Compensation. In the event Contractor incurs amounts in excess of the Maximum Compensation, Contractor shall bear sole liability for such amounts.

(b) Method of Payment. Except as may otherwise be provided by the Compensation Terms, the Commission will endeavor to pay any invoice within thirty (30) days of submission of such invoice, subject to the approval of all amounts therein by the Commission. At a minimum, each invoice shall (i) reference the Contract Number; (ii) reference any associated purchase order numbers; (iii) describe each service performed and/or supply or material supplied in detail and in accordance with the Specifications/Scope of Work; (iv) specify the amount charged for each such service, supply, or material; (v) be accompanied by a certification (on or attached to the invoice) that the payment requested is for work performed in accordance with this Agreement; and (vi) contain such other information or certifications as the Commission may specify in writing from time to time. The Commission, in its sole discretion, may elect not to pay any invoice that fails to comply with the requirements of this Subsection.

105. **Insurance Requirements**. Contractor shall not commence work until Contractor has obtained, at its sole cost and expense, the single-limit insurance policies checked below in the minimum amounts specified below. Contractor must initial next to all checked boxes.

☐	**General Liability** $1,000,000.00	_____	☐	**Workers Compensation** $1,000,000.00	_____
☐	**Automobile Liability** $500,000.00	_____	☐	**Errors and Omissions** $1,000,000.00	_____
☐	**Other:** $	_____			_____

(a) Requirements for All Policies. The Commission, the Authority, and the City shall be named as certificate holders and additional insureds on all insurance policies required by this Section. Each policy shall provide that it may not be canceled, amended, terminated, or otherwise modified except upon thirty (30) days advance written notice to the Commission, the Authority, and the City. Each policy shall be endorsed with a waiver of subrogation whereby each of Contractor's insurers shall waive all rights of subrogation against the Commission, the Authority, and the City, and each of their respective elected or appointed commissioners, officers, employees, members, council members, or agents for losses paid by Contractor's insurers that arise out of or relate to Contractor's performance under this Agreement. Coverage shall remain in full force and effect during the entire term of the Agreement, as extended from time to time, and for such term thereafter as the Commission may reasonably

specify. For any claims arising out of or in connection with Contractor's performance under this Agreement, the insurance required by this Section shall be primary and non-contributory to any insurance carried by the Commission, the Authority, or the City.

106. **Necessary Approvals**.

(a) In the event that the initial amount of this Contract exceeds, or a change order increases the amount of this Contract to an amount that exceeds, Two Hundred Fifty Thousand and No/100 Dollars ($250,000.00), this Contract must be approved by the Board of Commissioners of the Commission in order to be binding upon the Commission. In no event shall the Commission be bound by this Contract unless and until such approval, if required, is obtained.

(b) In the event that the initial amount of this Contract exceeds, or a change order increases the total amount of this Contract to an amount that exceeds, Five Hundred Thousand and No/100 Dollars ($500,000.00), this Contract must be approved by the Housing Authority in order to be binding upon the Commission. In no event shall the Commission be bound by this Contract unless and until such approval, if required, is obtained.

107. **Contract Documents**. In addition to this instrument, this Contract includes the Schedule of Definitions, the General Conditions, the Specifications/Scope of Work, the Compensation Terms, the Prevailing Wage Attachment, [and] the COVID-19 Protocols and Acknowledgement, [and] [Insert Other Conditions Attachments], all of which are incorporated herein by this reference, except as to the Prevailing Wage Attachment, which shall only be incorporated in accordance with Section 18 of the General Conditions.

108. **Counterparts; Electronic Execution**. This Agreement may be executed in one or more counterparts and, when and as so executed, all such counterparts taken together shall constitute one and the same agreement. This Agreement may be executed using any "electronic signature" in accordance with California Civil Code section 1633.2.

[Signature Page Follows]

Signature Page to [Full Agreement Title] with [Contractor] (Contract No. [NUMBER]):

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the day and year first above written, effective as specified in Section 103.

Contractor:
[Contractor Name]

By:_____ Date:_____
Name: _____
Title: _____

Commission:
San Diego Housing Commission

By:_____ Date:_____
Name: _____
Title: _____

Approved as to Form:
Christensen & Spath LLP

By:_____ Date:_____
Name: Charles B. Christensen
Title: General Counsel, San Diego Housing Commission

Attachment A
Schedule of Definitions

1. "Agreement" or "Contract" means the main instrument to which this Attachment A is attached and all exhibits or attachments thereto to the extent the same have been incorporated and as the same may be amended from time to time.

2. "Applicable Law" means all applicable federal, state, and local constitutions, treaties, laws, statutes, ordinances, regulations, rules, orders, decrees, permits, resolutions, requirements, and policies of the United States of America, the State of California, the City, the Commission, or any other governmental authority of competent jurisdiction.

3. "Authority" means the Housing Authority of the City of San Diego.

4. "CEO" means the Chief Executive Officer of the Commission or the CEO's lawful designee.

5. "City" means the City of San Diego.

6. "Claims" means damages, liabilities, claims, fines, fees, costs, penalties, judgments, complaints, causes of action, actions, and demands, including, without limitation, demands arising from injuries to or death of persons (including Contractor's employees, agents, and subcontractors) and damage to real or personal property, or any other losses, damages, or expenses.

7. "Commission" means the San Diego Housing Commission. When this Agreement specifies an action to be taken or withheld by the Commission, "Commission" shall include the authorized officers, employees, and agents of the Commission.

8. "Compensation Terms" means the terms and conditions specified in Attachment D to the Agreement.

9. "Conflict" means circumstances, known to the Contractor, that would conflict with Contractor's performance of the terms of this Agreement or place the Commission and a prospective client of Contractor in adverse, hostile, or incompatible positions wherein the interests of the Commission, the Authority, or the City may be jeopardized.

10. "Contract Number" means the number specified next to the phrase "Contract No." at the top of this Agreement.

11. "Contractor" means the Party other than the Commission identified above, and, unless the context requires otherwise, such Party's officers, directors, members, managers, partners, limited partners, employees, agents, and subcontractors.

12. "COVID-19 Protocols and Acknowledge" means the terms and conditions specified in Attachment F to the Agreement.

13. "Extension Period" shall have the meaning ascribed thereto by Section 103(a).

14. "General Conditions" means the terms and conditions contained in Attachment B to the Agreement.

15. "HUD" means the United States Department of Housing and Urban Development and any successor agency thereto.

16. "Indemnitee" means the Commission, the Authority, the City, or any commissioner, officer, employee, member,

council member, or agent thereof.

17. "Inspecting Agency" means the Commission and any of its duly authorized representatives.

18. "Initial Term" shall have the meaning ascribed thereto by Section 103.

19. "Maximum Compensation" shall have the meaning ascribed thereto be Section 104.

20. "Option Period" shall have the meaning ascribed thereto by Section 103(b).

21. "Parties" means the Commission and Contractor, collectively, and "Party" means either of the Parties, individually.

22. "Project Records" means all administrative and financial records required to be prepared or gathered by Contractor pursuant to this Agreement, including, but not limited to, all books, papers, invoices, receipts, accounting records, payroll records, personnel records, designs, plans, reports, financial disclosures, audits, other disclosures, certifications, investigations, videos, work product, and any other documents, data, and records pertaining to this Agreement.

23. "Specifications/Scope of Work" means the terms and conditions specified in Attachment C to the Agreement.

Attachment B
General Conditions

1. **Status of Contractor**. Contractor acknowledges that Contractor is an independent contractor and is not an agent or employee of the Commission, the Housing Authority, the City, HUD, or any other governmental authority.

(a) Any term of this Agreement that could be construed to give the Commission a right to direct Contractor concerning the details of performing its obligations and duties hereunder or to exercise any control over such performance shall be construed to pertain only to the Commission's direction concern the expected results of performance under this Agreement.

(b) Contractor shall have no authority to bind the Commission in any manner or to incur any obligation, debt, or liability of any kind, on behalf of or against the Commission, whether by contract or otherwise, unless such authority is expressly granted pursuant to this Agreement or in a writing signed by the Commission.

2. **Designated Representative**. Contractor shall designate a representative with the authority to bind Contractor with respect to decisions to made pursuant to this Agreement. Contractor may designate a new representative upon ten (10) days written notice to the Commission.

3. **Ownership of Materials and Documents**. Any and all sketches, drawings, and other materials or documents prepared by Contractor pursuant to or in connection with this Agreement shall be the property of the Commission from the moment of their preparation, and Contractor shall deliver such materials and documents to the Commission whenever requested to do so by the Commission. Contractor shall have the right to make duplicate copies of such materials and documents for its own file or for other purposes in compliance with Section 4.

4. **Non-disclosure**. The designs, plans, reports, investigations, materials, and documents prepared or acquired by Contractor pursuant to this Agreement (including any duplicate or electronic copies however and wherever stored) shall not be disclosed to any non-party, except as previously authorized by the Commission in writing. Furthermore, Contractor shall not disclose to any nonparty any information regarding the activities of the Commission during the term of this Agreement or at any time thereafter except as previously authorized by the Commission in writing. Contractor shall use reasonable care to prevent the unauthorized disclosure of information subject to this Section. If requested by the Commission, Contractor shall negotiate the terms of and enter into a formal non-disclosure agreement with the Commission in form and substance reasonably satisfactory to the Commission.

(a) Exception. Nothing in this Section shall apply to the disclosure of any information that:

(i) was publicly known, or otherwise known to Contractor, at the time the information was first provided to Contractor by the Commission;

(ii) subsequently becomes publicly known through no act or omission of Contractor;

(iii) becomes known to Contractor from a third party other than the Commission, provided Contractor has not induced such disclosure in violation of law or in breach of any agreement of such third party with the Commission if such agreement was known to Contractor or should have been known to Contractor through the exercise of due diligence;

(iv) is considered a public record pursuant to the California Public Records Act, codified at California Government Code sections 6250 et seq.; or

(v) is required to be disclosed pursuant to law or a court order, provided that Contractor gives notice of such requirement to the Commission prior to such disclosure, if permitted by law; such shall be reasonably calculated to allow the Commission to seek a protective order or other appropriate legal protection against disclosure prior to the disclosure.

5. **Contractor's Indemnification Liability**. Contractor agrees to and shall indemnify, hold harmless, and defend, with counsel of Indemnitees' choosing, at Contractor's sole cost and expense, Indemnitees from and against any and all Claims arising directly or indirectly out of the acts or omissions of Contractor (irrespective of culpability), all obligations of this Agreement, or out of the operations conducted by Contract pursuant to this Agreement, including, but not limited to, those in part due to the negligence of any of Indemnitees, except as to liabilities, claims, judgments or demands arising through the sole negligence or more culpable act or omission of any Indemnitee.

6. **Correction of Work**. Performance of the terms of this Contract shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the Commission, provided such work is due to the acts or omissions of Contractor and has not been accepted in writing by an authorized representative of the Commission.

7. **Compliance with Laws and Policies**. Contractor shall comply with Applicable Law. In addition, Contractor shall immediately comply with all directives issued by the Commission or the City, or their duly authorized representatives, under authority of any Applicable Law. Failure by Contractor to comply with Applicable Law shall be deemed a material breach of this Agreement and shall be grounds for the Commission to terminate this Agreement immediately upon written notice to Contractor.

8. **California Equal Opportunity Requirement**. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor and its subcontractors shall not deny this Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

(b) Contractor shall comply with the provisions of the Fair Employment and Housing Act (Cal. Gov. Code § 12900 et seq.), the regulations promulgated thereunder (2 C.C.R. §§ 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the California Government Code (Gov. Code, §§ 11135-11139.5), and any regulations or standards adopted by the Commission to implement such article

(c) Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the Commission upon reasonable notice at any time during normal business hours, but in no case upon less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as either shall require to ascertain compliance with this clause.

(d) Contractor and its subcontractors shall give written notice of their obligations under this Section 8 to labor organizations with which they have a collective bargaining or other agreement.

(e) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract.

9. **Records**. Contractor shall take reasonable measures to maintain the integrity and accuracy of Project Records and shall comply with the terms of this Section.

(a) Accounting Records. In accordance with generally accepted accounting principles maintained on a consistent basis, Contractor shall maintain full and complete records of the cost of services performed pursuant to this Agreement, utilizing internal controls and maintaining appropriate source documentation for all costs incurred.

(b) Inspection and Photocopying. At any time during normal business hours and as often as requested, during the term of this Agreement for so long as storage is required pursuant to Subsection (d) below, Contractor shall permit any Inspecting Agency to inspect and photocopy, at Contractor's offices or such other reasonable location requested by any of the foregoing, all Project Records for the purposes of making audits, examinations, excerpts, and/or transcriptions, as well as monitoring and evaluating Contractor's performance of its obligations and duties under this Agreement. An Inspecting Agency may retain copies of Project Records if the Inspecting Agency deems such retention necessary in its sole discretion.

(c) Copies of Records. Upon any request by an Inspecting Party for copies of Project Records, Contractor shall submit exact duplicates of the originals of the requested Project Records to the such Inspecting Party for the purposes described above in Subsection (b).

(d) Storage. Contractor shall store all Project Records for a period of not less than five (5) years after the Contractor's final submission of all required reports under this Agreement, or five (5) years after the Commission and Contractor make all final payments, or until all pending matters including audits and litigation have been finally resolved, whichever period is longest. All Project Records shall be kept at the Contractor's regular place of business. After the storage period has expired, Contractor shall provide each Inspecting Agency with thirty (30) calendar days written notice of Contractor's intent to dispose of any Project Records. During such 30-day period, Contractor shall provide any and all Project Records to any Inspecting Agency upon such Agency's request, and Contractor shall refrain from disposing of specified Project Records if requested by any Inspecting Agency.

(e) Flow Down. Contractor shall include the terms of this Section, including the terms of this Subsection, in each of its subcontracts and shall cause each of its subcontractors to do the same.

10. **Subcontracting**. No performance required of Contractor by this Agreement may be subcontracted without the prior written approval of the Commission, which it may withhold in its sole and absolute discretion. Any putative subcontracting of Contractor's rights, obligations, and/or duties under thisAgreement shall not create a contractual relationship between the Commission and any putative subcontractor, and any such subcontracting shall be null and void. Any subcontracting in violation of this Section shall be grounds for immediate termination of this Agreement upon written notice to Contractor, at the sole discretion of the Commission.

(a) Requesting Consent. In order to obtain consent to subcontract, Contractor shall submit to the Commission a list of all potential subcontractors and a description of work to be performed by each subcontractor. Once this list has been approved, no changes to the list will be allowed except upon written approval of the Commission.

(b) Contractor's Liability. Contractor shall be fully liable for the acts and omissions of its subcontractors, and their employees, agents, and contractors, as though such acts and omissions were those of Contractor itself.

11. **Assignment**. Contractor shall not assign or transfer any interest in this Agreement (whether by assignment or novation) without the express prior written consent of the Commission. Notwithstanding the foregoing, no such approval shall be required for the assignment of claims for money due or to become due to Contractor from the Commission to

a bank, trust company, or other financial institution, or to a receiver or trustee in bankruptcy, but Contractor shall promptly provide written notice thereof to the Commission.

12. **Preference for Domestic Materials**. Except as otherwise provided by California Government Code sections 4300 et seq., wherever possible in the performance of this Agreement, only unmanufactured materials produced in the United States, and only manufactured materials manufactured in the United States, substantially all from materials produced in the United States, shall be used in the performance of the Agreement.

13. **Preparation of Written Reports or Documents**. Provided that the total cost for work performed by Contractor pursuant to this Agreement exceeds $5,000, any document or written report prepared in whole or in part by Contractor for or under the direction of the Commission shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report. The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

14. **Termination**. The Commission may terminate this Agreement, in whole or in part, effective thirty (30) days after delivering written notice to Contractor, if the Commission determines such termination is in the Commission's interest. If this Agreement is terminated, the Commission shall be liable only for amounts due for services, supplies, and/or materials rendered and/or supplied before the effective date of such termination. Additionally, the Commission may terminate this Agreement immediately upon written notice to Contractor as a result of cessation of funding of or lack of adequate appropriations for any federal, state, or local program that provides funds used by this Agreement. The termination rights in this Section are in addition to and cumulative with any other rights of termination located elsewhere in this Agreement.

15. **Patents and Copyrights**. The Commission hereby reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for government purposes, any patents and copyrights in any work developed under this Agreement.

16. **Drug-free Workplace**. Contractor certifies to the Commission that it will provide a drug-free workplace and will:

(a) Publish a statement notifying its employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance as defined in schedules I-V of section 202 of the federal Controlled Substance Act is prohibited in Contractor's workplace; such statement shall specify the actions that will be taken against employees for violation of such prohibition.

(b) Establish a drug-free awareness program to inform employees about all of the following:

(i) The dangers of drug abuse in the workplace.

(ii) Contractor's policy of maintaining a drug-free workplace.

(iii) Any available drug counseling, rehabilitation, and employee assistance programs.

(iv) The penalties that may be imposed upon employees for drug abuse violations.

(c) Post the statement required by Subsection (a) in a prominent place at Contractor's main office and at any job site large enough to necessitate an on-site office.

17. **Plan of Operations**. Contractor shall submit to the Commission a complete plan of operations. Contractor shall promptly notify the Commission of any changes to the plan of operations.

18. **Labor Law**. Contractor shall be fully aware of and shall comply with each and every requirement of federal, state, and local law regarding the provision of labor concerning this Agreement, including but not limited to, the payment of applicable prevailing wages, if either or both boxes are checked below. In the event both boxes are checked below, Contractor acknowledges that it is solely responsible for determining which prevailing wage terms apply to the work performed under this Agreement.

☐ If checked, additional state prevailing wage terms are contained in Attachment E, which is hereby incorporated in this Agreement in full by this reference.

☐ If checked, additional federal prevailing wage terms are contained in Attachment E, which is hereby incorporated in this Agreement in full by this reference.

19. **Entire Agreement**. This Agreement represents the sole and entire Agreement between the Commission and Contractor and supersedes all prior and contemporaneous negotiations, representations, agreements, arrangements, or understandings, either oral or written, between or among the Parties, relating to the subject matter of this Agreement, except as expressed herein. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each Party.

20. **Waiver**. No failure of a Party to insist upon the strict performance by the other Party of any term, covenant, or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any term, covenant, or condition of this Agreement, shall constitute a waiver of any such breach of such term, covenant, or condition. No waiver of any breach shall affect or alter this Agreement.

21. **Successors in Interest**. The rights, duties, and obligations of this Agreement shall inure to the benefit of the Parties and their respective permitted successors and assigns.

22. **Drafting Ambiguities**. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiation of the terms, covenants, and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each Party participated in the negotiation or drafting of the Agreement.

23. **Signing Authority**. Each individual executing this Agreement on behalf of an entity represents and warrants that such individual is authorized to execute and deliver this Agreement on behalf of such entity in accordance with duly adopted resolutions or other authorizing actions that are necessary and proper under such entity's governing documents, and that this Agreement is binding upon such entity in accordance with its terms. Upon request, Contractor shall provide the Commission with evidence, satisfactory to the Commission, that such individual's authority is valid and that such entity has been duly formed and is in good standing in the jurisdiction of its formation, and that such entity is authorized to do business in the State of California.

24. **Conflict Between Agreement and Attachments**. To the extent that the terms of the Agreement and the attachments conflict, the construction most favorable to the Commission shall apply.

25. **Partial Invalidity**. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

26. **Governing Law; Jurisdiction and Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its principles regarding the conflict of laws. The courts of the

State of California shall have exclusive jurisdiction over any dispute, claim, or matter arising out of or related to this Agreement, and venue shall lie exclusively in the Central Division of the Superior Court of the County of San Diego, California.

27. **Headings**. All headings in this Agreement are for convenience only and shall not affect the interpretation or construction of this Agreement.

28. **Attorney's Fees and Costs**. In any action involving breach, interpretation, and/or enforcement of the terms of this Agreement, the prevailing party shall be entitled to its costs, expert witness fees, if any, and reasonable attorneys' fees.

29. **Remedies Upon Default**. The failure of Contractor to perform each and every covenant of Contractor in a timely manner, and in a good and workmanlike manner, and in strict compliance with the requirements of the Specifications/Scope of Work (which, in the case of goals and outcomes shall be construed to require good-faith efforts to meet such goals and outcomes), shall constitute a breach under the terms of the Agreement. For any breach that does not jeopardize the health, safety, or general welfare of Contractor's clients or members of the public, the Commission shall give seven (7) days written notice to Contractor, detailing the nature of such breach and requiring Contractor to cure such breach within such seven-day period. In the event that such a breach is not timely cured, the Commission shall have all remedies available at law or in equity, including, without limitation, the right to terminate the Contract, the right to cause another contractor or the Commission to take over the duties under the terms of the Contract, the right to sue for damages, specific performance or injunctive relief, and any other remedies available at law or in equity. In the event that the health, safety, or general welfare of Contractor's clients members of the public is jeopardized, the Commission shall have the right to terminate the Agreement immediately upon written notice to Contract. In addition, in the event of an uncured breach or a breach without the right to cure, the Commission shall have the right to recoup any and all funds that may have been advanced to the Contractor and that have not been earned.

The failure of the Commission to make a timely payment to Contractor under this Agreement shall constitute a breach under the terms of the Agreement. Contractor shall give seven (7) days written notice to cure any such breach to the Commission. In the event that the breach is not cured, Contractor shall have the right to terminate this Agreement.

30. **Notices**. All notices required or permitted to be given by a Party pursuant to this Agreement shall be deemed delivered (i) immediately upon receipt if delivered personally, (i) the next business day if delivered to a nationally recognized overnight carrier with charges prepaid prior to the cutoff for next-day delivery specified by such carrier, or (ii) three (3) business days the date of deposit with the United States Postal Service for delivery via certified mail, postage prepaid, return receipt requested, and in all cases addressed to the other Party at such Party's addresses as set forth at the beginning of this Agreement, or at such other address as such Party shall designate in writing to the other Party by written notice given as specified in this Section from time to time.

31. **Audit Requirements**. Contractor shall comply with the audit requirements of 2 C.F.R. pt. 200, as amended, if no audit requirements are specified in the award of the Contract. Otherwise, Contractor shall comply with the audit requirements specified in the award of the Contact.

32. **Contractor Evaluation Program**. An essential component of public works contract administration is the regular evaluation and documentation of contractor performance. During the course of the Agreement, the Commission shall conduct performance evaluations to document Contractor's record of complying with the terms of the Agreement. The Commission shall proactively monitor and manage the performance of Contractor during the term of the Agreement and shall create an objective record of performance that can and may be utilized when evaluating Contractor as a responsible bidder for future bid and proposal submissions, extension or renewal consideration, or termination due to unsatisfactory performance. Contractor evaluation program and appeal procedures are located on the Commission's website at https://www.sdhc.org/doing-business-with-us/contracting-and-procurement-services/vendor-information/,

as amended from time to time, and are incorporated herein in full by this reference.

33. **Interests of Current or Former Commissioners, Officers, and Employees**. No commissioner, officer, or employee of the Commission, no member of the governing body of the locality in which the work performed pursuant to this Agreement is situated, no member of the governing body in which the Commission was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the assignment of such work, shall, during such person's tenure, or for one (1) year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof. Any violation of this Section shall result in unilateral and immediate termination of this Agreement by the Commission upon written notice to Contractor

34. **Conflicts of Interest; Disclosure of Economic Interests**. Contractor and its subcontractors shall comply with all applicable federal, state, and local conflict of interest laws and regulations, including, but not limited to, the Commission's Conflict of Interest Code (for purposes of this Section only, the "Code"), a current copy of which may be requested from the Commission. In addition to the other requirements of the Code, and subject to the Commission's determination in writing in accordance therewith, Contractor shall cause each of its officers, directors, partners, limited partners, members, managers, employees, and agents that is determined to be a "consultant" pursuant to the Code to file a completed and executed Statement of Economic Interests (Form 700) with the City's Clerk's Office at the following times:

(a) No later than thirty (30) days after the execution of this Agreement;

(b) Annually on or before April 1 of each year;

(c) Within thirty (30) days after full performance of this Agreement, as determined by the Commission in its sole discretion;

Contractor shall cause each designated consultant to email a copy of each filed Form 700 to Maurcell Gresham, Director of Procurement, at maurcell@sdhc.org within five business (5) days of filing.

Contractor shall provide all assistance requested by the Commission to determine whether any of the above-specified individuals qualifies as a "consultant." Additionally, upon the cessation of a consultant's legal relationship with Contractor, Contractor shall notify such consultant of the consultant's responsibility to file a Form 700 with the City's Clerk's Office within thirty (30) days of such termination or expiration.

Any violation of the Code or this Section shall be deemed a material breach of this Agreement and shall entitle the Commission to terminate this Agreement immediately upon written notice to Contractor.

35. **Procedure for Handling Conflicts of Interest**. Except upon the prior, written consent of the Commission, which it may withhold in its sole and absolute discretion, and in compliance with the other terms of this Section, Contractor shall not perform services of any kind for any person or entity during the term of this Agreement if so doing appears reasonably likely to result in a Conflict. Notwithstanding the foregoing, this Section shall not apply to any of Contractor's business arrangements with clients that began prior to the execution of this Contract.

(a) Meet and Confer. Contractor shall promptly notify the Commission in writing in the event a Conflict appears reasonably likely. Thereafter, Contractor shall meet and confer with the Commission to agree upon terms to apply to its arrangements with an affected prospective client, and/or its arrangements with the Commission, in order to continue to perform services for such client and the Commission without compromising the interests of either. Should no agreement regarding modification be reached within a reasonable time thereafter, or should the prospective client refuse to agree to such modification, the Commission may terminate this Agreement immediately upon written notice to Contractor.

(b) When Consent Is Given. If and when the Commission has consented as provided above in this Section, Contractor shall use best efforts to avoid performance on behalf of the affected client that would in any manner undermine Contractor's effective performance of the terms of this Agreement. Contractor agrees to alert every prospective client for whom consent to a Conflict is required to the existence of the terms of this Section and to include language in its agreement with such client that will enable Contractor to comply fully with such terms.

(c) Termination. Failure to follow the procedures of this Section shall entitle the Commission to terminate this Agreement immediately upon written notice to Contractor. Additionally, the Commission may unilaterally and immediately terminate this Agreement upon written notice to Contractor if Contractor employs an individual who, within twelve (12) months immediately preceding such employment, in their capacity as a Commission employee, participated in negotiations with or otherwise had an influence on the selection of the Contractor.

Attachment C
Specifications/Scope of Work

Attachment D
Compensation Terms

Attachment E
Prevailing Wage Attachment (If Applicable)