

**CONTRACT SERVICES AGREEMENT**

**By and Between**

**CITY OF CARSON HOUSING AUTHORITY**

**and**

**RSG, INC.**

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN THE CITY OF CARSON HOUSING AUTHORITY AND  
RSG, INC.**

THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into effective this 6<sup>th</sup> day of July, 2021 by and between the CITY OF CARSON HOUSING AUTHORITY, a public body formed under the California Housing Authorities Law (Health and Safety Code Sections 34200, *et seq.*) (“Authority”) and RSG, INC., a California corporation (“Consultant”). Authority and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

**RECITALS**

A. Authority has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the Authority to perform those services.

C. Pursuant to the City of Carson’s Municipal Code, Authority has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1. SERVICES OF CONSULTANT**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the Authority entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its

ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

#### 1.2 Consultant’s Proposal.

The Scope of Service shall include the Consultant’s scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

#### 1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the Authority and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

#### 1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless Authority, its officers, employees or agents of Authority, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against Authority hereunder.

#### 1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the Authority of such fact and shall not proceed except at Consultant’s risk until written instructions are received from the Contract Officer.

#### 1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by Authority, except such losses or damages as may be caused by Authority's own negligence.

#### 1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

#### 1.8 Additional Services.

Authority shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the Authority Board. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. Authority may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

#### 1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

## ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

### 2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, Authority agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed **Four Hundred Seventy Five Thousand Two Hundred Thirty Five Dollars (\$475,235)** (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

### 2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

### 2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the Authority. Coordination of the performance of the work with Authority is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

### 2.4 Invoices.

Each month Consultant shall furnish to Authority an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City of Carson's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and subcontractor contracts. Subcontractor charges shall also be detailed by such categories. Consultant shall not invoice Authority for any duplicate services performed by more than one person.

Authority shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by Authority, or as provided in Section 7.3, Authority will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that

due to Authority warrant run procedures, the Authority cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by Authority, the original invoice shall be returned by Authority to Consultant for correction and resubmission. Review and payment by Authority for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

### 2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

## **ARTICLE 3. PERFORMANCE SCHEDULE**

### 3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

### 3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

### 3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the Authority, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the Authority for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

### 3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1)

years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”).

#### **ARTICLE 4. COORDINATION OF WORK**

##### **4.1 Representatives and Personnel of Consultant.**

The following principals of Consultant (“Principals”) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Tara Matthews</u>	<u>Principal and Vice-President</u>
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for Authority to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of Authority. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify Authority of any changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

##### **4.2 Status of Consultant.**

Consultant shall have no authority to bind Authority in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against Authority, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by Authority. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant’s officers, employees, or agents are in any manner officials, officers, employees or agents of Authority. Neither Consultant, nor any of Consultant’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to Authority’s employees. Consultant expressly waives any claim Consultant may have to any such rights.

##### **4.3 Contract Officer.**

The Contract Officer shall be the Executive Director or such person as may be designated by the Executive Director. It shall be the Consultant’s responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by Authority to the Contract Officer. Unless

otherwise specified herein, any approval of Authority required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the Executive Director, to sign all documents on behalf of the Authority required hereunder to carry out the terms of this Agreement.

#### 4.4 Independent Consultant.

Neither the Authority nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. Authority shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of Authority and shall remain at all times as to Authority a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of Authority. Authority shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

#### 4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the Authority to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the Authority. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of Authority. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of Authority.

### **ARTICLE 5. INSURANCE AND INDEMNIFICATION**

#### 5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Authority, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of Authority:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not



less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the Authority submit written evidence of this continuous coverage.

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(g) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the Authority requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant.

## 5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the Authority, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by Authority or its officers, employees or agents may apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the Authority, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the Authority. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Consultant has provided the Authority with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the Authority. Authority reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to Authority.

All certificates shall name the Authority as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

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Consultant Initials

Authority, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or any automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to Authority, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by Authority. At the option of Authority, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Authority or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to Authority.

### 5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the Authority, its officers, employees and agents (“Indemnified Parties”) against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable (“indemnitors”), or arising from Consultant’s or indemnitors’ reckless or willful misconduct, or arising from Consultant’s or indemnitors’ negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys’ fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the Authority, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the Authority, its officers, agents, and employees harmless therefrom;

(c) In the event the Authority, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the Authority, its officers, agents or employees, any and all costs and expenses incurred by the Authority, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys’ fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify Authority hereunder therefore, and failure of Authority to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of Authority’s sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from

Authority's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

#### 5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the Authority ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the Authority, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

### **ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

#### 6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to Authority and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of Authority, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the Authority shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to Authority, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the Authority in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

#### 6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the Authority is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being

designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

### 6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of Authority and shall be delivered to Authority upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by Authority of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the Authority’s sole risk and without liability to Consultant, and Consultant’s guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to Authority of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify Authority for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the Authority.

### 6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than Authority without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the Authority Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives Authority notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then Authority shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify Authority should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. Authority retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with Authority and to provide Authority with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by Authority to control, direct, or rewrite said response.

## **ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION**

### **7.1 California Law.**

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

### **7.2 Disputes; Default.**

In the event that Consultant is in default under the terms of this Agreement, the Authority shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the Authority may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the Authority shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the Authority may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the Authority may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the Authority to give notice of the Consultant's default shall not be deemed to result in a waiver of the Authority's legal rights or any rights arising out of any provision of this Agreement.

### **7.3 Retention of Funds.**

Consultant hereby authorizes Authority to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate Authority for any losses, costs, liabilities, or damages suffered by Authority, and (ii) all amounts for which Authority may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a

third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, Authority may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of Authority to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect Authority as elsewhere provided herein.

#### 7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by Authority of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### 7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

#### 7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

#### 7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The Authority reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to Authority, except that where termination is due to the fault of the Authority, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where

the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

#### **7.8     Termination for Default of Consultant.**

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, Authority may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the Authority shall use reasonable efforts to mitigate such damages), and Authority may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the Authority as previously stated.

#### **7.9     Attorneys' Fees.**

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

### **ARTICLE 8. AUTHORITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

#### **8.1     Non-liability of Authority Officers and Employees.**

No officer or employee of the Authority shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

#### **8.2     Conflict of Interest.**

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of Authority or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times



avoid conflicts of interest or the appearance of any conflicts of interest with the interests of Authority in the performance of this Agreement.

No officer or employee of the Authority shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

### 8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

### 8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against Authority for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse Authority for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by Authority.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### 9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the Authority, to the Executive Director and to the attention of the Contract Officer (with her/his name and Authority title), Carson Housing Authority, 701 East Carson, Carson, California 90745 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

## 9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

## 9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

## 9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the Authority Board. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

## 9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

## 9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of Authority has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of Authority participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "non-interests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any Authority official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any

Authority official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials \_\_\_\_\_

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date and year first-above written.

**AUTHORITY:**

CITY OF CARSON HOUSING AUTHORITY,  
a public body formed under the  
California Housing Authorities Law

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Lula Davis-Holmes, Chair

**ATTEST:**

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John Carroll  
Chief Deputy Authority Secretary

APPROVED AS TO FORM:  
ALESHIRE & WYNDER, LLP

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Sunny K. Soltani, Authority Counsel  
[rjl]

**CONSULTANT:**

RSG INC., a California corporation

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Name:  
Title:

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Name:  
Title:  
Address: 17872 Gillette Ave., Suite 350  
Irvine, CA 92614

**Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.**

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On \_\_\_\_\_, 2021 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<b>CAPACITY CLAIMED BY SIGNER</b>	<b>DESCRIPTION OF ATTACHED DOCUMENT</b>
<input type="checkbox"/> INDIVIDUAL	
<input type="checkbox"/> CORPORATE OFFICER	
<div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> PARTNER(S)</div><div style="text-align: center;">TITLE(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL</div></div>	_____ TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	
<input type="checkbox"/> GUARDIAN/CONSERVATOR	_____ NUMBER OF PAGES
<input type="checkbox"/> OTHER _____	
<b>SIGNER IS REPRESENTING:</b> (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	_____ DATE OF DOCUMENT
	_____ SIGNER(S) OTHER THAN NAMED ABOVE

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<div style="text-align: center;">_____ TITLE(S)</div> <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	<div style="text-align: center;">_____ TITLE OR TYPE OF DOCUMENT</div>
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	<div style="text-align: center;">_____ NUMBER OF PAGES</div>
<input type="checkbox"/> GUARDIAN/CONSERVATOR	
<input type="checkbox"/> OTHER _____	
<b>SIGNER IS REPRESENTING:</b> (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	<div style="text-align: center;">_____ DATE OF DOCUMENT</div>
	<div style="text-align: center;">_____ SIGNER(S) OTHER THAN NAMED ABOVE</div>

**EXHIBIT “A”**  
**SCOPE OF SERVICES**

**I. Consultant will perform the following Services on an as-needed basis:**

- A. SB 341 Report** – As directed by the Authority, on an annual basis, prepare the Annual Housing Authority Report pursuant to SB 341 and amended SB 107.

Pursuant to redevelopment agency dissolution, SB 341 created a new requirement that successor housing entities provide an annual report that details compliance with the expenditure limitations specified in SB 341 during each five-year compliance period (“SB 341 Report”). Successor Housing Entities are required to annually provide the SB 341 Report. The SB 341 Report provides information regarding the Low- and Moderate-Income Housing Asset Fund encumbrances reported on the Housing Asset Transfer form and is submitted to the State’s Department of Housing and Community Development (“HCD”) by December 31. As required by SB 341, the SB 341 Report includes the following information:

- The amount deposited into the Housing Fund
- A statement of the balance of the Housing Fund
- A description of expenditures by category
- The statutory value of real property
- A description of transfers
- A description of projects that receive funding through ROPS
- The status of properties pursuant to the five-year disposition period
- An update on the inclusionary and replacement housing obligation
- Compliance with expenditures in the five-year period
- The percentage of senior deed-restricted units
- The amount of excess surplus

- B. Other Regulatory Reporting:** As directed by the Authority, prepare other regulatory reporting as required by law.

*HA Annual Report:* Pursuant to Health and Safety Code (“HSC”) Sections 34328 and 34328.1, all housing authorities must annually file with their respective city clerks and submit to HCD a complete report of its activities during the previous fiscal year by October 1. As part of the reporting process, a housing authority may make recommendations for legislation or other actions necessary to carry on a program of housing and community development properly in the State. The following describes the information that must be included in the Housing Authority Annual Report (“Annual Report”):

1. A complete report of activities taken during the prior fiscal year, including those permitted by HSC Section 34312.3:
  - Bonds for multifamily rental housing
  - Loans for multifamily rental housing

- Financing agreements for multifamily rental housing
  - Develop, rehabilitate, or finance housing projects
  - Purchase, sell, lease, own, operate, or manage housing projects assisted by the Housing Authority
  - Convey surplus lands to a developer for permitted purposes
  - Establish a special trust fund or account funded with bond issuance proceeds or developer contributions for the purpose of assisting housing units for very low-income person
2. The Housing Authority must show compliance with the requirements of HSC Section 34312.3, including:
- Provide the minimum amount of housing units affordable to lower income households in housing projects assisted by the Housing Authority
  - Establish base rents pursuant to Federal requirements for lower income households
  - Establish maximum rental payments for lower income households pursuant to State and Federal requirements
3. In addition to Items 1 and 2 above, the Annual Report must include:
- Data on termination of tenancies because of domestic violence in Housing Authority units
  - Brief summary of steps taken by the Authority to address termination of tenancies resulting from domestic violence

*HOME Subsidy Layering:* Subsidy layering occurs when a project receives funds from more than one governmental source. Jurisdictions planning to combine HOME funds and other governmental funds for an affordable multi-family residential project must conduct an evaluation to demonstrate that the project will not receive more HOME funding than necessary to provide affordable housing.

Prepare analysis that will comply with the published Housing and Urban Development (“HUD”) Guidelines (CPD 98-1). HUD has prepared a HOME Multifamily Underwriting Evaluation Template (HOME Template) to assist jurisdictions in demonstrating that the project will not receive more HOME funds than necessary to provide affordable housing. The HOME Template is designed to incorporate HOME Program requirements into the planning and analysis of the project as well as accommodate the requirements of another affordable housing program.

Site and neighborhood standards of 24 CFR 983.6(b) and 987.57(e) apply to new construction of rental housing, which places limiting conditions on building in areas of "minority concentration" and that are "racially mixed." Consultant understands that if a Project falls within this category a Site and Neighborhood Standard Analysis will also be required.



*Development & Operating Pro Forma Review:* Review the developer's development pro forma to determine the reasonableness of estimated development costs, revenue assumptions and proposed financing structure, including, but not limited to, the potential for receiving HOME funds. A review as to whether the costs being funded by the HOME Program are eligible and the HOME funds per unit do not exceed the maximum per-unit subsidy limits.

The HOME Program requires a review of rents, expenses, cash flows, and tax benefits. Consultant will conduct an evaluation to determine whether the cash flow projections are reasonable given current economic conditions.

*Project Evaluation:* Prepare a memorandum along with the completed HOME Template, detailing City's findings and recommendations regarding the economic feasibility of the proposed development, as well as whether the total requested amount of HOME funding and other governmental assistance exceeds the amount necessary to make the project feasible due to the unreasonableness of the costs and/or projected rate of return.

*Site and Neighborhood Standards Review:* Research and determine that the Project site is of adequate size, exposure, and contour to the proposed development, has adequate utilities, and not in an area of minority concentration. City's findings will be incorporated into the memorandum.

**C. Agreement Compliance.** As directed by the Authority, prepare Agreement Compliance items.

*Project Agreement Summaries:* Develop project agreement summaries and forms to help identify key components in a summary style document of the required monitoring. The summary forms are ideal to quickly access the information of the upcoming schedule of monitoring and easily prepare the necessary documents. Information in the summary forms would be:

- Agreement milestone dates
- Financial reporting requirements
- Annual reporting information
- Required owner obligations

*Residual Receipts and Reconciliation:* Provide financial audit services to the Housing Authority to ensure compliance pursuant to related affordable housing agreements and loan documentation. Undertake the following tasks to review payments owed from each applicable property:

- Review Affordable Housing Agreements and Loan Documents to confirm which properties owe loan payments from residual receipts. Each loan agreement will have individual terms for making residual receipt loan repayments from what is typically referred to as "net cash flow", or revenues less operating expenses and qualified debt. Prepare a brief loan term

summary sheet for each property that has an outstanding residual receipts loan that outlines how net cash flow is defined and annual loan repayments are calculated.

- Perform audits of project financial statements covering the past 1-2 years for each property with outstanding residual receipt loans. Additional years may be examined if it appears that there are significant variances on what was paid versus what should have been paid to the Authority. The review audits would focus primarily on the Financial Statements' "Statements of Operations" and related information.
- Prepare a cash flow analysis to determine residual receipt revenue for each project. The cash flow analysis would itemize rent revenues and other income for the project's operations, and the annual operating expenses paid from the total income received, as well as any other costs including deposits to operating and replacement reserve accounts.
- Calculate periodic payments of principal and interest including deferred interest, and participation payments including residual receipts payments in accordance with the applicable terms and conditions of the agreements.
- Provide a historic summary of operating cash flows to identify all amounts to be paid to the Authority pursuant to each property's repayment obligation, while also tracking the project's continuing operating feasibility.
- Prepare a memo summarizing audit findings and any issues to discuss with Property Owners.
- If requested by the Authority, Consultant shall meet with Authority and Property Owners to discuss any variances in the methodology for calculating residual receipt revenue and any other concerns that may arise from review of the Financial Statements. Consultant shall foster communication that allows both parties to come to resolution on how the calculation should be performed. The fee for this optional service would be charged on a time and materials basis with staff's authorization as budget permits.

**Deliverables:**

- Review of project financial statements for the past three years
- Cash flow analysis calculating residual receipts owed
- Memo summarizing findings and issues
- Optional: Meetings with Authority and Property Owners to resolve differences

**D. Housing Monitoring.** Assist Authority staff with monitoring existing program for owner occupancy of the existing homeownership units. Services include:

1. Set-up certification process of the owner- occupancy requirements based on the loan terms.
2. Draft specific templates for the monitoring as listed below:
  - (a) Notification letter that outlines the documentation requesting the annual monitoring process, including language to have the homeowner provide proof of income and supporting documentation of unit occupancy.
  - (b) Recertification forms for proof of occupancy.
  - (c) Confirmation/close out form to complete the monitoring.
3. Prepare a database to track and organize all the homeownership units that are being monitored. The database would include columns such as:
  - (a) Homeowner name
  - (b) Property address
  - (c) Qualified AMI
  - (d) Document form names (corresponding to the monitoring)
  - (e) Dates of mailed forms, data collected, completed forms and confirmation of close out
  - (f) Compliance status
  - (g) Other activities corresponding to the controlling agreement
4. Conduct affordable housing calculation worksheet as requested by program participants. That may be caused by change of ownership, sale of property, and or refinance. Verify household income levels by unit based on affordable income levels published by the state limits applicable to the loan, including:
  - (a) AMI eligibility requirements
  - (b) Affordable housing cost amount
  - (c) Maximum resale purchase price

**E. Compliance Monitoring.** Affordable Housing Compliance Monitoring Services for eleven (11) multifamily apartment projects: 61-unit Carson Terrace, 91-unit Avalon Courtyard, 149-unit Villaggio I and II, 40-unit Arbor Green, 85-unit The Gateway, and 105-unit Via 425 Phase I and II Apartments, 50-unit Veteran's Village, 65-unit Bella Vita, and 46-unit Carson Arts Colony. Monitoring services shall include rental increase requests, residual receipt payments, agreement analysis, and any other task that may be requested by the Housing Authority. Ensure compliance related to Federal and State regulations. In particular, ensure compliance with the annual reporting requirements, as well as other project funding sources, and ensure that required deposits are made into the project's operating and capital reserve accounts pursuant to the controlling documents. The compliance monitoring services would be specific to requirements in each

agreement as it relates to each of the projects. The monitoring services would include:

1. Conduct an audit of each affordable housing project including tenant file review (remotely).
2. Review and ensure the annual compliance report is accurately demonstrating the alignment of the tenant file data/contents.
3. Analyze tenant's income eligibility and gross rents are complying with the State or Federal published income and rent limits, along with the requirements of the corresponding project agreement.
4. Review for accuracy and completeness corresponding forms as required by the controlling agreement such as:
  - Tenant application, recertifications, lease, addendums, rent documentation and certificate of program compliance.
5. Report to the Housing Authority and property management/owners on the status of each project monitored. The report identifies all key areas monitored such as:
  - Project overview, unit set-aside designation by area median income, program compliance, tenant documentation, income and rent analysis.
  - Follow-up with any corrections and recommendations noted in the report findings, by working with the property managers/owners to bring project into full compliance with the Housing Authority's project agreement.
6. Create income, rent limit and utility allowance charts for current year and distribute to the Housing Authority and property owners.
7. Collect various monitoring documents, such as tenant income certifications/re-certifications, certificate of continuing program compliance from the owner/manager of the property. This documentation includes collecting current tenant data for each restricted unit from the property manager or owner for all tenants occupying restricted units. Information is to be tracked with an occupancy report and shall include but is not limited to: unit address, rental unit number, tenant name, lease date, rent increases, move-in and move-out date, tenant household composition (names, occupations of all household members), household income/assets, maximum rent, rent paid, applicable deductions, utility allowance (basic and energy efficient), and whether the unit receives Section 8 voucher assistance and the amount of the housing assistance payment.

8. Accurately review income source documentation for new and re-certifying tenants of restricted units.
9. Accurately apply various affordable housing program regulations and requirements to determine whether each of the projects complies. Identify how each program differs in the income documentation required and frequency with which such documentation must be collected from tenants. Multi-family housing revenue bond projects must be reviewed for compliance with restrictions established by the Internal Revenue Service.
10. Provide customer service to the property owner and manager by establishing and maintaining a good working relationship with them, and provide training on compliance requirements as needed.
11. Provide the Housing Authority with a compliance report and back-up documentation (i.e. Certificate of Continuing Program Compliance, Occupancy Summary Report, and Tenant Income Certifications including tenant income documentation).
12. Determine homeownership resale calculations including eligibility for prospective homebuyers purchasing remaining deed restricted affordable units.
13. Prepare and coordinate the execution of covenant documents for the purchase of those units.
14. Monitor these units for compliance with the covenants and respond and prepare documents in response to homeowners who refinance, sell, or default on their units.
15. Provide additional related services and technical assistance as requested by the Housing Authority, including but not limited to, assistance remediating findings of noncompliance.

**F. Staff Assistance.** Advise and support staff as needed on affordable housing-related questions or issues as they arise. Affordable housing efforts are intricately linked to other fields such as real estate, finance, and economic development.

**G. Other Services and Special Projects as Requested.** Provide the following other services to the Housing Authority on an as needed, as requested, basis”

Status Updates. Provide periodic status updates to the Housing Authority to keep them informed of monitoring activities and be available to assist the Housing Authority with agreement reviews and any other as-needed housing services, upon request.

Villaggio Refinancing. Review the *Villaggio Refinancing* proposal provided by TSA (Developer) on March 9, 2021. This would include a thorough review of the

existing controlling documents (Regulatory Agreement and Loan Documents), proposed capital repair and improvement plans, and the proposed HUD Loan terms and long-term cash flow to support the debt. Based on this information, consultant will analyze the data to evaluate the following:

- Ensure that the proposed refinancing would be achievable and to verify Developer's assumptions on the cash available to repay a portion of the Housing Authority loan
- Review controlling documents to ensure that the transaction complies with regulatory and contractual obligations.
- Review the capital needs assessment and/or related information regarding the scope and amount of capital repairs needed for the Project and the impact it may have on availability of proceeds to repay a portion of the Housing Authority loan

Prepare a memorandum detailing findings and the implications for the Housing Authority in negotiations. Included in the memorandum would be a set of recommendations for the negotiations. Discuss matter with Housing Authority staff in preparation for the negotiations. It is anticipated the Housing Authority's legal counsel will draft any amendments to or any agreements needed to complete the transaction. It is anticipated that one presentation to the Housing Authority board will be needed for this engagement.

CalHFA Letter of Support. Prepare a letter in support of the changes and requests made by TSA regarding refinancing out of the CalHFA Loan. Review the request to ensure that they are needed and align with the Housing Authority's understanding the of the transaction

Avalon Courtyard Rental Assistance. Developer has requested that the proceeds received by the Housing Authority as part of the Villaggio refinancing be set-aside and used as project based rental assistance for the Avalon Courtyard project. The developer is requesting this to help increase cash flow to refinance the Avalon Courtyard project and address capital improvement needs. However, it should be noted that the developer has indicated that this is secondary to the Villaggio refinancing, although addressing both projects at one time is preferred.

If the Housing Authority elects to evaluate this portion of the Developer's proposal, Consultant shall review a proposal provided by the Developer. This would include a thorough review of the existing controlling, proposed capital repair and improvement plans, and the proposed pro forma.

Review the developer's qualification and financial capacity by examining the viability of the proposed capital stack to finance rehabilitation and permanent financing. Consultant will review the developer's financial pro forma and cash flow analyses to determine the reasonableness of estimated development costs, revenue assumptions and proposed financing structure, including, but not limited

to, the potential for receiving 4% LIHTC. Examine the need for the requested financial subsidy and compliance with controlling documents. Direct and indirect development costs will also be examined to identify budget excesses or deficiencies based on third party data sources and comparable project experience.

Prepare a memorandum detailing City's findings and the implications for the Housing Authority in negotiations. Included in the memorandum would be a set of recommendations for the negotiations. Consultant would discuss these with Housing Authority staff in preparation for the negotiations. It is anticipated the Housing Authority's legal counsel will draft any amendments to or any agreements needed to complete the transaction. It is anticipated that one presentation to the Housing Authority board will be needed for this engagement.

*Project Underwriting.* Evaluate cost estimate reasonableness, determine the financial feasibility and if gap financing is warranted, prepare a modeling pro forma, review tax credit and other funding source market conditions, and prepare a 55-year cash flow projection. City will summarize its findings to note key proposal terms, strengths and weaknesses, and need for gap financing.

*Cost Estimates* – Evaluate proposed construction costs for the improvements based on current third-party cost data obtained from Marshall & Swift Valuation Services, and City's recent comparable project experience, as well as the related "indirect" construction costs identified by each developer proposal. The feasibility analysis will focus on the level of public funding assistance to be brought by the proposer to maximize the leveraging of the funding assistance.

*Pro Forma Review* –Review development costs, constraints, extraordinary issues, and financing sources (both equity and debt). Context for the return on investment (ROI) analysis will be based on a combination of experience, research of comparable transactions in Southern California and discrete consultations with lenders and investor representatives in the appropriate professional network. Consultant will also rely on insight from the Housing Authority and the developer, in context of external research, in order to understand how the developer's expectations mirror the market for such projects presently.

This analysis will indicate the profitability or infeasibility of the project and highlight whether any gap financing is needed. Consultant will also scrutinize the developer's assumptions to ensure that the anticipated costs, revenues, and operating and replacement reserves are realistic and not over/understated. This includes a detailed look at developer fees, deferred fees, tax credit pricing, and other funding sources to ensure estimated values mirror market conditions.

Deliver a peer review pro forma analysis, consisting of detailed construction and project phasing assessment, a phasing and post-stabilization 55-year operating forecast to evaluate whether Housing Authority funds will be repaid, and various measures of return on investment based on the proposed developer's preferred disposition of the project once developed.

Reports and Meetings – Prepare a summary memorandum that will include key proposal terms, strengths and weaknesses, and detail the necessity of gap financing from the Housing Authority. Deliver to the Housing Authority all financial analyses, proposal data and related review materials. Consultant anticipates an initial memorandum detailing issues that City would request further information from the developer. The final memorandum to the Housing Authority would summarize City’s findings and City’s gap financing recommendations.

All meetings and conference calls will be attended by either a Principal or Senior Associate. As needed, meeting and conference calls will be held with the Housing Authority to provide progress updates or discuss areas of concern. For the purpose of the cost estimate, it is anticipated that two (2) meetings/conference calls will be needed per project.

**II. Consultant must perform all as-needed Services in compliance with the following requirements:**

- A. All tasks shall be carried out in conformity with all provisions of this Agreement.
- B. All tasks shall be performed at a cost not to exceed the Task Budget.
- C. Consultant shall complete the task and deliver all deliverables to Contract Officer by the Task Completion Date.

**III. As part of the Services, Consultant will prepare and deliver the following tangible work products to the Authority:**

- A. Income, rent limit and utility allowance charts.
- B. Compliance report and back-up documentation (i.e. Certificate of Continuing Program Compliance, Occupancy Summary Report, and Tenant Income Certifications including tenant income documentation).
- C. All audit and other reports, as required in the Scope of Services.
- D. All cash flow worksheets.

**IV. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the Authority apprised of the status of performance by delivering the following status reports:**

Periodic status updates to keep Housing Authority informed of monitoring activities.

**V. All work product is subject to review and acceptance by the Authority, and must be revised by the Consultant without additional charge to the Authority until found satisfactory and accepted by Authority.**

**VI. Consultant will utilize the following personnel to accomplish the Services:**



- A.** Tara Matthews, Principal & Vice President, to serve as Management Contact for the engagement.
- B.** Dominique Clark, Senior Associate.
- C.** Greg Smith, Senior Associate.
- D.** Rosa Romero, Associate.
- E.** Brandon Fender, Associate.
- F.** Maggie Stanko, Analyst.
- G.** Alejandra Martinez, Research Assistant.

**EXHIBIT “B”**  
**SPECIAL REQUIREMENTS**  
**(Superseding Contract Boilerplate)**

(new text is identified in ***bold italics***, deleted text in ~~strike-through~~)

**I. Section 3.4, “Term,” of the Agreement is hereby amended to read as follows:**

“3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but ***no later than June 30, 2026 which is slightly less than*** ~~not exceeding~~ ***five (5)*** ~~one (1)~~ years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”).”

**EXHIBIT “C”**  
**SCHEDULE OF COMPENSATION**

- I. Consultant shall establish a Task Budget for each Task identifying the subtasks, based on the time and rates of the personnel performing the subtasks, and itemizing all materials and equipment utilized and the costs thereof, and Consultant shall prepare a schedule for completion of the Task (“Task Completion Date”).**

CITY OF CARSON							
AFFORDABLE HOUSING PROGRAMS - MULTI-YEAR PROPOSAL							
	Principal/ Director	Senior Associate	Associate	Analyst	Research Assistant	Total Hours	Total Cost
Staffing Position	\$275	\$200	\$185	\$135	\$125		
Hourly Rate							
Estimated Hours by Activity							
<b>A. Annual Housing Authority Report (SB341)</b>	2		10	25		37	\$5,775
<b>B. Other Regulatory Reporting</b>							
HA Annual Report	2		10	25		37	\$5,775
HOME Subsidy Layering - As needed	12	50		40		102	\$18,700
<b>C. Agreement Compliance</b>							
Project Agreement Summaries - For 3 Projects			11		20	31	\$4,535
Residual Receipts Review & Analysis - As needed per project	4		10	16		30	\$5,110
<b>D. Housing Monitoring (184 ownership units)</b>			5	18	15	38	\$5,230
<b>E. Compliance Monitoring (11 Projects)</b>	1		45	35	94	175	\$25,075
<b>F. Staff Assistance</b>	10	10	10	10	10	50	\$9,200
<b>G. Other Items and Special Projects as Requested</b>							
Villaggio Refinancing - One Time Fee	11	42				53	\$11,425
CalHFA Letter of Support - One Time Fee	1	7				8	\$1,675
Avalon Courtyard Rental Assistance - One Time Fee	11	53			10	74	\$14,875
Project Underwriting - As needed per project	20	20	20	15	15	90	\$17,100
<b>FIRST YEAR TOTAL</b>	<b>54</b>	<b>162</b>	<b>101</b>	<b>169</b>	<b>149</b>	<b>635</b>	<b>\$107,375</b>
A. Annual Housing Authority Report (SB341)	2		10	25		37	\$5,775
B. Other Regulatory Reporting - Annually Recurring	14	50	10	65		139	\$24,475
C. Agreement Compliance - Residual Receipts Review	4		10	16		30	\$5,110
D. Housing Monitoring (184 ownership units) - Annually Recurring			5	18	15	38	\$5,230
E. Compliance Monitoring (11 Projects) - Annually Recurring	1		45	35	94	175	\$25,075
F. Staff Assistance - As needed	10	10	10	10	10	50	\$9,200
G. Other Items and Special Projects as Requested - Project Underwriting	20	20	20	15	15	90	\$17,100
<b>SECOND YEAR TOTAL</b>	<b>51</b>	<b>80</b>	<b>110</b>	<b>184</b>	<b>134</b>	<b>559</b>	<b>\$91,965</b>
<b>THIRD YEAR TOTAL</b>	<b>51</b>	<b>80</b>	<b>110</b>	<b>184</b>	<b>134</b>	<b>559</b>	<b>\$91,965</b>
<b>FOURTH YEAR TOTAL</b>	<b>51</b>	<b>80</b>	<b>110</b>	<b>184</b>	<b>134</b>	<b>559</b>	<b>\$91,965</b>
<b>FIFTH YEAR TOTAL</b>	<b>51</b>	<b>80</b>	<b>110</b>	<b>184</b>	<b>134</b>	<b>559</b>	<b>\$91,965</b>
<b>TOTAL FOR SERVICES OF ALL FIVE YEARS</b>	<b>420</b>	<b>968</b>	<b>844</b>	<b>1412</b>	<b>1132</b>	<b>4776</b>	<b>\$475,235</b>

Consultant does not charge for travel or mileage (except direct costs related to field work/surveys), parking, standard telephone/fax expenses, general postage, or incidental copies. However, Consultant does charge for messenger services, overnight shipping/express mail costs, and teleconferencing services. Consultant also charges for copies of reports, documents, notices, and support material in excess of five copies. These costs are charged back at the actual expense plus a 10% surcharge.

- II. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services. NOT APPLICABLE**
- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**
- IV. The Housing Authority will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**
  - A.** Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
  - B.** Line items for all materials and equipment properly charged to the Services.
  - C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
  - D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- V. The total compensation for the Services shall not exceed \$475,235 as provided in Section 2.1 of this Agreement.**
- VI. The Consultant's billing rates for all personnel are attached as Exhibit C-1.**

**EXHIBIT C-1**

**BILLING RATES**

Principal/Director	\$ 275
Senior Associate	\$ 200
Associate	\$ 185
Senior Analyst	\$ 150
Analyst	\$ 135
Research Assistant	\$ 125
Technician	\$ 80
Clerical	\$ 60
Reimbursable Expenses	Cost plus 10%

**EXHIBIT “D”**  
**SCHEDULE OF PERFORMANCE**

- I. Consultant shall perform all Services timely in accordance with the following schedule:**

Consultant shall perform all Services in accordance with the needs and requests of the Housing Authority on an on-call basis as set forth in Exhibit “A.”

- II. The Contract Officer may approve extensions for performance of the Services in accordance with Section 3.2.**