

Surveyor Professional Services Contract #2220 between the AHA and Contractor

CONTRACT BETWEEN THE ALBUQUERQUE HOUSING AUTHORITY AND CONTRACTOR

INTRODUCTION

This agreement is made and entered into this [REDACTED] day of [REDACTED] 2022, by and between the Albuquerque Housing Authority, a separate Public Body Corporate and a state public body as defined under the Municipal Housing Law, NMSA 1978 §§ 3-45-1 *et seq.*, as amended, (hereinafter referred to as the "AHA"), and **Contractor name** (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, the AHA has a need for Surveyor Professional; and **WHEREAS**, the Contractor has the knowledge and experience to provide Surveyor Professional Services; and **WHEREAS**, the AHA desires to engage the Contractor to render certain professional and/or technical services in connection therewith and the Contractor is willing to provide such services. **NOW THEREFORE**, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. **Scope of Services.** The services provided pursuant to this contract generally consist of those services for the AHA as described herein and within the Attachments, H. Services Fee Quotation Form and Scope of Work within RFP No.2220 documents. In addition, the AHA shall retain the right to implement and/or enforce any item issued as a part of RFP No. 2220.
2. **Time of Performance.** The Contractor will complete each assigned task as detailed within the directive issued or request made by the AHA ED or designee. Services of the Contractor shall commence on [REDACTED], 2022, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement; provided, however, that in any event, all of the Services required hereunder shall be completed no later than [REDACTED], 2023. This contract is initially executed for the period not to exceed one (1) year base with the option, at the AHA's discretion, of four (4) additional one-year option periods, for a maximum total of five (5) years.
3. **Contract Value and Method of Payment.**
 - A. **Contract Value.** For performing Surveyor Professional Services specified in Scope of Work in RFP 2220 the AHA agrees to pay the Contractor for services rendered pursuant to this contract. AHA does not guarantee any minimum or maximum amount of work under this requirements contract. AHA retains the right to order from the Contractor, on an as needed basis, any amount of services from the Surveyor Professional Services Fee Quotation (Attachment H) that the HA requires. The pricing arrangements will be Firm Fixed Rate.

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Maximum Contracts NTE Ceiling: \$ 000,000.00

The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order. The HA reserves the right to, at any time during the ensuing contract period(s), amend this amount (increase/decrease) if the HA feels such amending is in the best interests of the HA.

- B. Method of Payment.** To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

**Deborah Mead
Fiscal Department
1840 University Blvd. SE,
Albuquerque, NM 87106
E-mail Address: ap@abqha.org.**

At a minimum, the invoice shall detail the following information:

- Unique invoice number;
- Contractor's name, address and telephone number;
- Date of invoice and/or billing period;
- Applicable Contract No.; **2220**
- Applicable Blanket Purchase Order Number; **BPO####.**
- Applicable Purchase Order Number.
- Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site if applicable, and at the approved rate (may be submitted in the form of a report);
- Total dollar amount being billed.

The HA will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Contractor complies with the applicable provisions of this contract.

- C. Non-Escalation.** Unless otherwise specified within the RFP documents, the rates reflected on the contract shall remain firm with no provision for rate increases during the term of the contract.
- D. Extraordinary Expense Request and Reimbursement.** Extraordinary expenses, such as out of town travel, expert witness fees, consultant fees, etc. must be approved in advance. Additionally, approval by the Executive Director is required

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prior to retaining any consultant services. The HA will reimburse Attorneys for such extraordinary expenses within 30 days after submission of an acceptable invoice detailing the date, amount, type and reason for the extraordinary expense and evidence of approval.

4. **Independent Contractor**. Neither the Contractor nor its employees are considered to be employees of the AHA for any purpose whatsoever. The Contractor is considered as an independent contractor at all times in the performance of the Services described in Section 1. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the AHA under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the AHA.

5. **Personnel**.

A. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the AHA.

B. All the Services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

C. None of the work or the Services covered by this Agreement shall be subcontracted without the prior written approval of the AHA. Any work or Services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

6. **Indemnity**. The Contractor agrees to defend, indemnify and hold harmless the AHA and its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties because of any injury or damage received or sustained by any person, persons or property arising out of or resulting from the Services performed by the Contractor under this Agreement, or by reason of any asserted act or omission, neglect or misconduct of the Contractor or Contractor's agents or employees or any subcontractor or the subcontractor's agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

A. In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the AHA, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the AHA. If the Contractor shall fail to do so, the AHA shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

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B. Any money due to the Contractor under and by virtue of this contract, which the AHA believes must be withheld from the Contractor to protect the AHA, may be retained by the AHA so long as it is reasonably necessary to ensure the AHA's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the AHA provided, however, the Contractor's payments shall not be withheld and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the AHA from any potential claims.

C. The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Agreement including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

7. **Insurance.** In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:

A. General Liability Insurance Policy, \$1,000,000 each occurrence, general aggregate minimum limit of \$3,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a deductible of not greater than \$1,000. AHA shall be named upon the certificate issued as an "additional insured" together with providing a copy of the corresponding endorsement evidencing the same.

B. Policy of Professional Liability Insurance or Errors & Omissions coverage, minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$3,000,000 with a deductible of not greater than \$1,000;

C. Worker's Compensation Insurance. Worker's compensation coverage evidencing carrier and coverage amounts in accordance with the provisions of the Workers Compensation Act of the State of New Mexico.

D. Certificates/Endorsements. The Contractor shall provide to the Agency with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the Albuquerque Housing Authority as additional insured's (where appropriate) during the term(s) of this contract shall constitute a material breach thereof. Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the Agency:

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**Agency Administrative Office
Attention: Rocio Solis Sinche
Procurement Officer
1840 University Blvd. SE
Albuquerque, NM 87106**

8. **Licensing.** The Contractor shall also provide to the Agency a copy of any required State of New Mexico or City of Albuquerque license(s). Failure to maintain these license's in a current status during the term(s) of this contract shall constitute a material breach thereof.
9. **Discrimination Prohibited.** In performing the Services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, physical handicap, or disability as defined in the Americans with Disabilities Act of 1990, as now enacted or hereafter amended.
10. **ADA Compliance.** In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the Americans With Disabilities Act of 1990, and all applicable rules and regulations (the "ADA"), which are imposed directly on the Contractor or which would be imposed on the AHA as a public entity. The Contractor agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the AHA, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of the Contractor or its agents in violation of the ADA.
11. **Reports and Information.** At such times and in such forms as the AHA may require, there shall be furnished to the AHA such statements, records, reports, data and information, as the AHA may request pertaining to matters covered by this Agreement. Unless authorized by the AHA, the Contractor will not release any information concerning the work product including any reports or other documents prepared pursuant to this Agreement until the final product is submitted to the AHA.
12. **Public Records Requirements.** Most procurement information and contracts are not proprietary and are a matter of public record and shall be available to the public to the extent provided in the New Mexico Public Inspection of Public Records Act, NMSA 1978 §§ 14-2-1 *et seq.*, the Open Meetings Act, 1978 §§ 10-15-1 *et seq.*, or other applicable laws and regulations. Contractor hereby guarantees access by AHA, any Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement, and not otherwise protected law, for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor agrees to comply with all such applicable public records and access requirements.
13. **Establishment and Maintenance of Records.** Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the AHA with respect to all matters

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covered by this Agreement. Except as otherwise authorized by the AHA, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.

14. Audits and Inspections. At any time during normal business hours and as often as the AHA may deem necessary, there shall be made available to the AHA for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the AHA to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. The Contractor may be required to provide such information and records and appear before the AHA Board of Commissioners, or any other applicable governmental body or agency.

15. Publication, Reproduction and Use of Material. No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The AHA shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. In addition, the AHA shall have unlimited rights in data first produced in the performance of this Agreement; form, fit, and function data delivered under this Agreement; data delivered under this Agreement (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this Agreement; and all other data delivered under this Agreement unless provided otherwise for limited rights data or restricted computer software.

16. Compliance with Local Laws and HUD. In performing the Services required hereunder, the Contractor shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments. Specifically, the Contractor agrees to comply with applicable HUD requirements, including the Annual Contributions Contract between the Authority and HUD, the standard General Condition of the Contract (non-Construction) Form HUD-5370-C, attached hereto, and successor issuances and conditions. Contractor shall comply with and complete each of, but not limited to, the requirements and forms listed on Exhibit A of this Agreement.

17. Lobbying Certification: By execution of this contract with the AHA the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement involving the AHA.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, or any Federal grant, loan, or cooperative agreement involving the

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AHA, the Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.

C. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

18. Additional Federally Required Orders/Directives: Contractor agrees that they will comply with the following laws and directives, where applicable:

A. Executive Order 11063, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.

B. Public Law-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. AHA hereby extends this requirement to the Contractor and its private contractors.

C. Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the AHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.

D. The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.

E. Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).

F. HUD Information Bulletin 909-23 which addresses the requirements for Notice of Assistance Regarding Patent and Copyright Infringement; Clean Air and Water Certification; and, Energy Policy and Conservation Act.

G. That the funds that are provided by the AHA and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.

H. That none of the personnel who are employed in the administration of the work required by this Agreement shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.

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I. The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable nor is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this Agreement shall forthwith be physically amended to make such insertion or correction upon the application of either part.

J. Section 3 Clause: As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this Agreement: The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The Contractor agrees to comply with HUD's regulations in 24 CFR part 135, which implement Section 3, which provisions are hereby incorporated by reference. As evidenced by Contractor's execution of this Agreement, the Contractor certifies that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

19. **Work on AHA Property:** If the Contractor's work under this Agreement involves operations by the Contractor on AHA's premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the AHA's negligence, shall indemnify the AHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
20. **Official, Agent and Employees of the AHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the AHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
21. **Salaries and Expenses Relating to the Contractors Employees:** The Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the scope of work under this Agreement. The Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this Agreement.

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- 22. Changes.** The AHA may, from time to time, request changes in the Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the AHA and the Contractor, shall be incorporated in written amendments to this Agreement.
- 23. Assignability.** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the AHA thereto.
- 24. Termination for Cause.** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the requirements, covenants, conditions, or stipulations of this Agreement, or the applicable policies, rules or regulations of AHA, the AHA shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof. Upon receipt of written notice of termination from AHA, Contractor shall immediately discontinue all Services and deliver to the AHA all information, documents, data, maps, studies, surveys, drawings, models, software, photographs and reports, and other materials accumulated or generated in performing the Services under this Agreement, whether completed or in process. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, software, photographs, reports, or materials or information, whether in hardcopy or stored electronically, prepared by the Contractor under this Agreement shall, at the option of the AHA, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
- Notwithstanding the above, the Contractor shall not be relieved of liability to the AHA for damages sustained by the AHA by virtue of any breach of this Agreement by the Contractor, and the AHA may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the AHA from the Contractor is determined.
- 25. Termination for Convenience by AHA.** The AHA may terminate this Agreement in its sole discretion for convenience at any time by giving at least five (5) day notice in writing to the Contractor. If the Contractor is terminated by the AHA as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the Services actually performed bear to the total Services of the Contractor covered by this Agreement, less payments of compensation previously made.
- 26. Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
- 27. Enforcement.** The Contractor agrees to pay to the AHA all costs and expenses including reasonable attorney's fees incurred by the AHA in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

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28. Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

29. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the policies, rules and regulations of the AHA.

IN WITNESS WHEREOF, the AHA and the Contractor have executed this Agreement as of the date first above written.

ALBUQUERQUE HOUSING AUTHORITY CONTRACTOR:

Approved By:

Approved By:

Linda Bridge, Executive Director

Signature, Title

Date: _____

Date: _____

EXHIBIT A- Attachments

ADDITIONAL COMPLIANCE REQUIREMENTS OF CONTRACTOR

- A. Form HUD-5369-C (8/93), *Certifications and Representations of Offerors Non-Construction Contracts***, attached hereto, which terms are expressly incorporated herein by reference.
- B. HUD-5370-C (3-31-2020) General Conditions for Non-Construction Contracts, Section I**, attached hereto, which terms are expressly incorporated herein by reference.
- C. Campaign Contribution Disclosure Form**, completed pursuant to NMSA 1978 § 13-1-19.1, which terms are expressly incorporated herein by reference.
- D. HUD Section 3 Plan and Affidavit**, attached hereto, which terms are expressly incorporated herein by reference.
- E. Contract Type-Indefinite-Delivery Contract.** Contracts provide for filling the PHA's purchase requirements for the supplies or services specified in the contract during a fixed period of time. AHA retains the right to order from the Contractor, on a Task/Request basis, any amount of that the HA requires. The pricing arrangements will be Firm Fixed Rate.

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F. Proposal 2220 and Surveyor Professional Services Fee Quotation Form, which terms are expressly incorporated herein by reference. The acceptable proposed rate (s) submitted by this contractor in response to the RFP, or any negotiated rate (s) that resulted thereto, which rate (s) shall apply to each procurement that ensues from this contract.

G. Notices, Invoices and Reports.

All notices and reports submitted to the HA by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the HA:

Dan Foster (Notices & Reports)
1840 University Blvd. SE,
Albuquerque, NM 87106

Or if appropriate, e-mail to: dfoster@abqha.org, and e-mail to: purchasing@abqha.org.

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

Contractor Name
Address

Or, e-mailed to: [contractoremailaddress](#)

State Taxation and Revenue Department
Taxpayer Identification Number

Federal Taxpayer Identification Number
