

PROFESSIONAL SERVICE CONTRACT
FOR
PROFESSIONAL ADA/UFAS THIRD PARTY CERTIFICATION SERVICES

This Agreement is made as of _____ between Kansas City Kansas Housing Authority, a body corporate and politic created under the provisions of the Housing Authorities Law, as amended, having its principal office at 1124 N. 9th Street, Kansas City, Kansas 66101 ("Authority"), and _____, having its principal office at _____ ("Contractor").

PREAMBLE

Authority desires the Contractor to provide professional ADA/UFAS third party certification services.

Contractor desires to provide to the Authority professional ADA/UFAS third party certification services.

AGREEMENT

In consideration of the mutual covenants and promises set forth herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **Engagement.** Authority hereby engages Contractor to render the following services set forth **in the scope of services.**

Contractor hereby accepts such engagement and covenants that Contractor will devote and will cause its employees to devote their best efforts, knowledge and skill to the performance of the Services and such additional services as may be mutually agreed upon by Authority and Contractor.

It is understood that the Contractor's Services shall be rendered at such times and places as directed by Authority.

Authority may at any time make changes to the Services to be performed. If any such change causes an increase or decrease in the rates or the time required for performance of the Services, Authority shall make an equitable adjustment in the rates and the time required for performance of the Services, and shall modify this Agreement accordingly.

2. **Contractor Conflicts.** Contractor agrees that neither Contractor nor its employees shall, directly or indirectly, engage in any activity, which would detract from Contractor's ability or its employees' ability to apply their best efforts, knowledge and skill to the performance of the Services. Contractor is charged with the responsibility to promptly disclose to Authority any situations that may create possible conflicts of interest

so that appropriate action can be taken to address such situations. No member, official, or employee of Authority, during his or her tenure or for one year thereafter, shall have any interest in this Agreement or the proceeds thereof.

Contractor may not participate in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

In the event Contractor is or becomes aware of a conflict of interest and fails to disclose the conflict to Authority; the Authority may immediately terminate this Agreement.

3. Compensation. In full compensation for the Services to be rendered by Contractor to Authority hereunder, Authority agrees to pay Contractor for the Services in accord with the Fee Schedule set forth in bid document however, the compensation of costs for services not to exceed fee of \$_____. No work or expenses for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of Authority.

Contractor shall submit invoices to the Authority, invoices shall include an itemization of the hours expended by Contractor and Contractor's employees and the nature of the Services performed and shall be prepared in a form reasonably satisfactory to Authority.

Contractor shall use its reasonable business efforts to submit invoices within 45 days of rendering Services.

All invoices should be mailed to: Kansas City Kansas Housing Authority
Attn: Susan Martin
1124 N. 9th Street
Kansas City, KS 66101

Authority shall use its reasonable business efforts to process and pay each such invoice within 30 days of its receipt.

4. Term. The commencement date for performing the Services shall be the date of this Agreement, listed above, and will continue for a term of three (3) years with two (2) one (1) year extension options, at the discretion of the Authority, unless sooner terminated as provided herein.

5. Contractor's Obligations. Contractor shall comply with the following:

(a) All services, duties, and obligations as described in the scope of services.

(b) If requested, Contractor will submit written narrative progress reports to the Authority. Contractor shall retain all records in connection with this Agreement or the Services provided herein for a period of three years after all payments required herein are made and all other pending matters are closed.

(c) This Agreement is subject to and incorporates herein the provisions of the U. S. Department of Housing and Urban Development regulations and the sections of the Code of Federal Regulations that are applicable to said program.

(d) If Contractor is a Subrecipient or pass-through entity, Contractor must comply with applicable regulations pertaining to this Agreement.

6. Insurance. Contractor will obtain and maintain (a) workers' compensation insurance in accordance with State Workers' Compensation Law; and (b) liability insurance with a combined single limit of not less than \$500,000 per occurrence with insurers reasonably acceptable to the Authority. Authority will be named as an additional insured on each of such liability policies and such coverage shall be on a primary and noncontributory basis. Contractor will deliver to Authority certificates evidencing such policies prior to the commencement of the Services and will deliver evidence of the renewal or replacement of such policies at least 30 days prior to the expiration thereof. Each of such policies will contain a waiver of the insurer's rights of subrogation against Authority.

7. Termination.

- (i) The Authority may terminate this Agreement for convenience upon 30 days' prior written notice to the Contractor.
- (ii) This Agreement shall terminate automatically without notice upon the occurrence of any of the following events:
 - (a) A material breach of this Agreement by Contractor.
 - (b) Contractor or Contractor's employees engaging in conduct materially injurious to the Authority or to itself/themselves, including but not limited to acts of dishonesty or fraud, commission of a felony or a crime of moral turpitude, or alcohol or substance abuse.
 - (c) Contractor's refusal to substantially perform the Services.
 - (d) Contractor becomes insolvent or makes a general assignment for the benefit of creditors; or
 - (e) Contractor files a petition in bankruptcy or such petition is filed against Contractor.

Authority shall be liable only for payment for Services rendered prior to the effective date of termination. If this Agreement is terminated, Authority may take over the Services and prosecute the same to completion by contract or otherwise, and Contractor shall be liable for any additional costs incurred by Authority. Authority may withhold any payments to Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owed to Authority by Contractor.

8. Minority/Women Participation. Contractor shall use its best efforts to ensure that minority-owned businesses and women's business enterprises shall have the maximum opportunity to participate in the performance of contracts and subcontracts

financed, in whole or in part, with federal funds provided under this contract. In this regard, Contractor shall take all necessary steps in accordance with 24 CFR 200.321, to ensure that minority-owned businesses and women's business enterprises have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts assisted by the U.S. Department of Housing and Urban Development.

Failure of Contractor to carry out the requirements set forth in 24 CFR 200.321 shall constitute a breach of contract and, after notification from the U.S. Department of Housing and Urban Development or Authority, may result in termination of this contract or such other remedy as is deemed appropriate.

For the purposes hereof, a minority-owned business shall mean sole proprietorship, partnership or corporation-owned, operated and controlled by minority group members who have at least 51% ownership. The minority group members must have operational control and interest in capital and earnings commensurate with their respective percentage of ownership. Furthermore, to qualify as a minority-owned business, the business must be certified as an MBE by either the Unified Government of Kansas City, Kansas or some other governmental entity whose certification is acceptable to Authority. Minority group members include, but are not limited to, African-Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and Hasidic Jewish American.

A women's business enterprise is defined as a sole proprietorship, partnership or corporation owned, operated, and controlled by women who have at least 51% ownership. Women must have operational control and interest in capital and earnings commensurate with their respective percentage ownership. Furthermore, to qualify as a women's business enterprise, the business must be certified as a WBE by either the Unified Government of Kansas City, Kansas or some other governmental entity whose certification is acceptable to Authority.

In the event of a contractor's failure to comply with the equal employment opportunity and affirmative action provisions, including the affirmative action undertaking outlined in its proposal, or with any of the rules, regulations or orders referenced within this contract, KCKHA, at its discretion, may exercise any one or more of the following rights and remedies:

- i. cancel, terminate or suspend the contract in whole or in part
- ii. recover from the Contractor, by set off against the unpaid portion of the contract, as liquidated damages and not as a penalty, an agreed upon sum for each day that the contractor fails to comply with the contract, the sum being fixed and agreed upon by and between contractor and KCKHA because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which KCKHA would sustain in the event of such a breach

- iii. such other rights and remedies (which are cumulative and not exclusive) available under applicable law on in equity.

9. Acceptance of the Services. Authority has the right to review and/or require correction of any Services provided by Contractor. Contractor shall make any required corrections to any Service within 10 days at no additional charge. The payment of any invoice by Authority does not indicate acceptance of Services provided. Further, the Authority reserves the right at any time to reject or disapprove any Service provided. If Contractor fails to make the necessary corrections within a reasonable time after notice to do so from the Authority, or if the submission of any corrected Service remains unacceptable, the Authority may immediately terminate this Agreement pursuant to paragraph 7(ii)(a) hereof or reduce the hourly rate to reflect the reduced value of the Services provided.

10. Confidential Information. Contractor agrees that Contractor will not knowingly reveal to a third party or use for Contractor's own benefit, either during or after the term of this Agreement, without the prior written consent of Authority, any confidential information pertaining to the business and affairs of Authority, its officers, employees and directors obtained while working with Authority except for information clearly established to be in the public record.

11. Representation and Warranties of Contractor. Contractor hereby represents and warrants to Authority that Contractor is not a party to or otherwise subject to or bound by any contract, agreement or understanding which would limit or otherwise adversely affect Contractor's ability to perform the Services or which would be breached by Contractor's execution and delivery of this Agreement or by the performance of the Services.

12. Indemnification. Contractor agrees to indemnify and hold Authority harmless from any and all claims, damages, liabilities, costs and expenses (collectively "Claims") arising out of or in connection with Contractor's or its employees' performance of the Services on behalf of Authority.

13. Independent Contractor. Contractor shall perform the Services hereunder as an independent contractor and not as an agent or employee of the Authority. Contractor shall be responsible for paying any and all required Federal, state or local taxes arising from the performance of the Services. Contractor agrees to remove any employee from the performance of the Services at the request of Authority.

14. Copyright. 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. Authority shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, or other materials and documentation prepared by Contractor under this Agreement.

15. Inspections; Work Product. Access shall be given by Contractor to Authority, the United States Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making an audit, examination, excerpts, and transcriptions.

All required records shall be retained for three years after Authority makes final payment and all other pending matters on which Contractor performed Services are closed. All work product produced by Contractor, including Contractor's employees, in accordance with this Agreement shall become the sole property of Authority in perpetuity. "**Work product**" shall include all records and other documents resulting from the Services performed under this Agreement. It is understood that Authority may reproduce any such work product without modifications and distribute such work product without incurring obligations for additional compensation to Contractor.

16. Return of Authority Property. Promptly after termination of this Agreement, Contractor shall return and shall cause its employees to return to Authority all property of the Authority then in Contractor's possession, including without limitation papers, documents, records, files, computer disks and confidential information, and shall neither make nor retain copies of the same. Authority's obligation to make final payment to Contractor following termination, including without limitation accrued but unpaid fees under paragraph 3 hereof, shall be contingent upon Contractor's compliance with this paragraph.

17. Third Party Solicitation. Contractor warrants that Contractor has not retained any company, firm or person to solicit or secure this Agreement and has not paid or agreed to pay any company, firm or person any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

18. Release. Prior to final payment under this Agreement, or prior to settlement upon termination of this Agreement, and as a condition precedent thereto, Contractor shall execute and deliver to Authority a final release ("Release"), in a form acceptable to Authority, of all claims against Authority by Contractor under and by virtue of this Agreement, other than such claims, if any, as may be specifically excepted by Contractor in stated amounts set forth therein.

19. Disputes. All disputes arising under or related to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

- (a) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Authority against the contractor shall be subject to a written decision by the Contracting Officer.
- (b) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.

- (c) The Contracting Officer's decision shall be final unless the Contractor
 - 1) Appeals in writing to a higher level in the Authority in accordance with the Authority's policy and procedures;
 - 2) Refers the appeal to an independent mediator or arbitrator; or
 - 3) Files suit in a court of competent jurisdiction. Such appeal must be made within 30 days after receipt of Contracting Officer's decision.
- (d) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action under or relating to the contract, and comply with any decision of the Contracting Officer.

20. Notices. All notices or other communications to either party by the other shall be deemed given when made in writing and deposited with the United States Postal Service addressed as follows:

If to the Authority: Kansas City Kansas Housing Authority
Attn: Executive Director, Andrea Tapia
1124 N. 9th Street
Kansas City, KS 66101

21. Compliance with Law. Contractor shall comply with all Federal, State and Local laws, regulations ordinances and codes relating to the operation and activities of Authority and all Services performed pursuant to this Agreement, including, but not limited to completing the following items.

- (a) Non-Debarment Statement
- (c) Disclosure of lobbying activity

22. Transfer by Contractor. Contractor shall not transfer or assign all or any part of its rights or obligations herein to any person or legal entity.

23. Miscellaneous. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. This Agreement embodies the entire Agreement between the parties hereto and supersedes any and all prior or contemporaneous, oral or written understandings, negotiations, or communications on behalf of such parties. This Agreement may be executed in several counterparts, each of which shall be deemed original, but all of which together shall constitute one and the same instrument. The waiver by either party of any breach or violation of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach or violation hereof. This Agreement is executed in and shall be governed by and construed in accordance with the laws of the State of Kansas. This

Agreement may only be amended by written agreement of both parties hereto. This Agreement shall inure to the benefit of the Authority, its successors and assigns.

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By: Kansas City Kansas Housing Authority

Andrea Tapia Executive Director

Date: _____

By: Contractor _____

_____ Title: _____

Date: _____