

**CONSULTING SERVICES AGREEMENT BETWEEN  
THE CITY OF SAN LEANDRO AND  
BAY AREA AFFORDABLE HOMEOWNERSHIP ALLIANCE (BAAHA)  
FOR  
SAN LEANDRO HOMEBUYER PROGRAM**

THIS AGREEMENT for consulting services is made by and between the City of San Leandro (“City”) and Bay Area Affordable Homeownership Alliance (BAAHA) (“Consultant”) (together sometimes referred to as the “Parties”) as of July 1, 2022 (the “Effective Date”).

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2023, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant’s obligations hereunder.
- 1.5 **Public Works Requirements.** Reserved.
- 1.6 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Consultant’s attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Consultant must submit completed self-certification form and comply with the LWO if covered.
- 1.7 **Public Works Contractor Registration.** Reserved.

**Section 2. COMPENSATION.** City hereby agrees to pay Consultant a sum not to exceed \$35,930 [THIRTY FIVE THOUSAND NINE HUNDRED THIRTY DOLLARS], notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**[NOTE TO STAFF: THE FOLLOWING PROVISIONS OF THIS SECTION MAY BE ALTERED AS NECESSARY TO FIT THE CIRCUMSTANCES OF A PARTICULAR AGREEMENT.]**

**2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any

other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.

**2.2 Quarterly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

**2.3 Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

**2.4 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

**2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.

**2.6 Reimbursable Expenses.** Reimbursable expenses are specified in: NOT APPLICABLE. Expenses not listed in NOT APPLICABLE are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

**2.7 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

**2.8 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.

**2.9 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

**4.1 Workers' Compensation.**

**4.1.1 General Requirements.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **\$1,000,000** per accident. In the alternative, Consultant may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agents, and subcontractors.

**4.1.2 Submittal Requirements.** To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

#### **4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General Requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than **\$1,000,000** and automobile liability insurance for the term of this Agreement in an amount not less than **\$1,000,000** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance coverage shall be primary insurance as respects the

City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

**4.2.4 Submittal Requirements.** To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

### **4.3 Professional Liability Insurance.**

**4.3.1 General Requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than **\$1,000,000** covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

**4.3.2 Claims-Made Limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

**4.3.3 Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy.

**4.3.4 Submittal Requirements.** To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

**4.4 Cyber Liability Insurance.**

**4.4.1 General Requirements.** Consultant, at its own cost and expense, shall maintain cyber liability insurance for the term of this Agreement in an amount not less than \$1,000,000.00 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress; invasion of privacy violations; information theft; damage to or destruction of electronic information; release of private information; alteration of electronic information; extortion; and network security. The policy shall provide coverage for liabilities for financial loss resulting or arising from acts, errors, or omissions, in rendering technology services:

- Violation or infringement of any right of privacy, including breach of security and breach of security/privacy laws, rules or regulations globally, now or hereinafter constituted or amended;
- Data theft, damage, unauthorized disclosure, destructions, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential City information in whatever form, transmission of a computer virus or other type of malicious code; and participation in a denial of service attack on third party computer systems;
- Loss or denial of service;
- No cyber terrorism exclusion;

Such coverage must include technology/professional liability including breach of contract, privacy and security liability, privacy regulatory defense and payment of civil fines, payment of credit card provider penalties, and breach response costs, including without limitation, notification costs, forensic analysis, credit protection services, call center services, identity theft protection services, and crisis management/public relations services.

**4.4.2 Claims-Made Limitations.** The following provisions shall apply if the cyber liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained, and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

**4.4.3 Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy.

**4.4.4 Submittal Requirements.** To comply with Subsection 4.4, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

**4.5 All Policies Requirements.**

**4.5.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**4.5.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

**4.5.3 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**4.5.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

**4.5.5 Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

**4.5.6 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 be subject to all of the requirements stated herein.



**4.6 Submittal of Proof of Insurance Coverage.** All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City's online insurance document management program, PINS Advantage. Contractor shall comply with all requirements provided by City related to the PINS Advantage program.

**4.7 Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.** Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

**Section 6. STATUS OF CONSULTANT.**

**6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

**6.2 Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

**Section 8. TERMINATION AND MODIFICATION.**

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 60 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but are not limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
  - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
  - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

**8.6.4** Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

**Section 10. MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.

- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

At City’s sole discretion, Consultant may be required to file with the City a Form 700 to identify and document Consultant’s economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the San Leandro City Clerk for the Form 700 and directions on how to prepare it.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

**10.9 Contract Administration.** This Agreement shall be administered by Tom Liao, Deputy Community Development Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

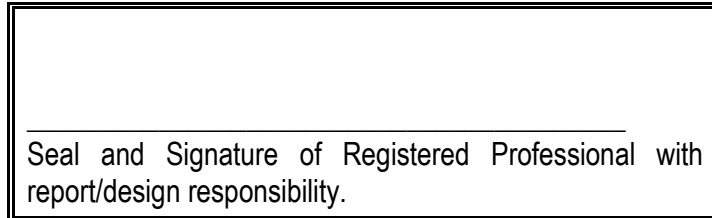
**10.10 Notices.** Any written notice to Consultant shall be sent to:

Roy Schweyer  
Bay Area Affordable Homeownership Alliance (BAAHA)  
5517 Geary Blvd, Suite 206  
San Francisco, CA 94121  
roy@myhomegateway.com

Any written notice to City shall be sent to:  
Tom Liao, Director  
Community Development Department  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

With a copy to:  
City of San Leandro  
Department of Finance  
c/o Purchasing Agent  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

**10.11 Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



**10.12 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, C, and D represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule & Reimbursable
<u>Exhibit C</u>	Expenses Indemnification
<u>Exhibit D</u>	COVID-19 Compliance Requirements
<u>Exhibit E</u>	MOU Between BAAHA & ECHO Housing

**10.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**10.14 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

**SIGNATURES ON FOLLOWING PAGE**

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

BAY AREA AFFORDABLE HOMEOWNERSHIP ALLIANCE

DocuSigned by:  
Fran Robustelli  
Frances M. Robustelli, City Manager  
DocuSigned by:

DocuSigned by:  
Roy Schweyer  
Roy Schweyer, Executive Director

Attest:



DocuSigned by:  
Kelly B. Clancy  
Leticia I. Miguel, City Clerk

Budget Approved:

Approved as to Fiscal Authority:

DocuSigned by:  
Maryette Bailey  
Michael Yuen, Finance Director

**010-41-004-8503**  
Account Number

Approved as to Form:

DocuSigned by:  
Richard Pio Roda  
Richard D. Pio Roda, City Attorney

Per Section 10.7:

- Form 700 Not Required
- Form 700 Required

DocuSigned by:  
Tom Liao  
Tom Liao, Director, Community Development Department



## EXHIBIT A

### SCOPE OF SERVICES

#### I. STATEMENT OF PURPOSE

The Consultant will provide the following services for the City of San Leandro, and where applicable, meetings and workshops shall be provided by the Consultant with an optional hybrid format (i.e.: public participation online via Zoom, Microsoft Teams, or similar platform and with technical assistance from City IT team using accessible public facility):

- 1) The delivery and administration of a First Time Homebuyer Education, Counseling, and Program Resource Clearinghouse.
  - a. Deliverables are inclusive of:
    - i. *HUD approved homebuyer education seminar*– provided by BAAHA and ECHO Housing. BAAHA will plan to coordinate a homebuyer education seminar with the delivery of new DR Horton Below Market Rate units sometime during the 2<sup>nd</sup> Quarter of the 2022/23 contract (October through December 2022).
    - ii. *Homebuyer counseling* – provided by BAAHA focused on establishing parameters, knowledge, and coaching households to commence and complete the home purchase process.
    - iii. *Financial counseling* – provided by ECHO Housing to prepare households to become a homebuyer through financial counseling; primarily directed towards budgeting and credit management.
    - iv. *Homebuyer Clearinghouse Informational Services* – Educating and directing San Leandro residents and workforce to homebuyer services and resources that expand capacity and affordability to gain access to homeownership. This objective is executed through employing three mechanisms:
      1. *Homebuyer Resource Workshop* – a workshop dedicated to introducing the San Leandro residents and workforce to services and resources to assist first time homebuyers. This workshop will include guest speakers and collateral material representing specific services and resources available. BAAHA will plan to coordinate a homebuyer resource workshop with the delivery of new DR Horton Below Market Rate units sometime during the 2<sup>nd</sup> Quarter of the 2022/23 contract (October through December 2022).
        - a. *AC Boost* - One of the key topics covered at the Homebuyer Resource Workshop will be Alameda County’s AC Boost Homebuyer Program. The Workshop will cover the composition of the Program, eligibility requirements, steps homebuyers will need to take to become an AC Boost Program participant, and direct homebuyers to the Administrator of the Program, Hello Housing. In addition, BAAHA will attempt to have Hello Housing present at the Homebuyer Resource Workshop
        - b. *Other Homebuyer Programs* – the Workshop will cover additional program, including and not limited to: Alameda County’s Mortgage Credit Certificate Program, Federal Home Loan Bank WISH Program, and CalHFA Programs.
    - v. Focused outreach activities promoting the Education, Counseling, and Clearinghouse campaign and related workshops will be conducted for each event. BAAHA plans for two (2) major campaigns – the General San Leandro First Time Homebuyer Resource workshop and HUD Certified Homebuyer Education Seminar (taught by ECHO

Housing). Outreach activities for both of these campaigns will include and not be limited to:

1. Social media campaigns – including:
    - a. City's Next Door and Economic Development Departments resources. BAAHA will work closely with the Economic Development Department to disseminate information to the professional workforce community.
    - b. Facebook
    - c. Instagram
    - d. Craigslist
  2. Press releases and Public announcements to San Leandro Times and East Bay Times (San Leandro Division)
  3. Direct Private and Public (including churches) Organization solicitation – providing memos, flyers, and brochures to employees and constituents.
  4. Emails directly sent out to Private and Public agencies. These email correspondences will include PDF flyers that the organizations can either print and post in public areas or distribute electronically to their employees and/or constituents (in the case of churches).
- 2) Administration of the Inclusionary Housing/BMR Ownership Program (IH/BMR) including managing (i.e., new sales, resales and refinancing) and monitoring of the City IH/BMR ownership units, marketing, program development, and performance reporting.
  - 3) Implementation of post-purchase workshops to San Leandro residents that have become homeowners through the IH/BMR Housing and First-Time Homebuyer Programs in San Leandro.
  - 4) One-on-one individual counseling focused on financial literacy (credit and personal financial counseling). Counseling is provided for as long as the household wishes to receive it and is directed towards helping households to secure homeownership. BAAHA will partner with the nonprofit ECHO Housing Services to provide lifetime personal financial counseling and assist with the homebuyer seminars. ECHO Housing Services is a Non-Profit 501(c)3 HUD Approved housing agency that is located in Hayward CA, A-1 was established with the intent of assisting low to moderate income homebuyers through delivering a variety of programs including: financial education, first time home buyer education, relocation assistance, foreclosure prevention and credit management.
  - 5) Access to financial assistance resources (such as the Federal Home Loan Bank WISH Program, Alameda County Mortgage Credit Certificate Program, etc.) that expand purchase capacity and/or reduce homeownership costs.
  - 6) Manage sub-contract with ECHO Services to provide expanded services for San Leandro FTHB Program participants in the areas of Pre-Purchase Counseling and Homebuyer Education.
  - 7) Program design and development of services and programs in conjunction with the City of San Leandro to further augment and expand affordable homebuyer opportunities for residents and workforce.

## II. TERM AND COMMENCEMENT OF WORK

The term of this agreement shall be for the period of July 1, 2022, through June 30, 2023.

## III. FIRST TIME HOMEBUYER SERVICES

### A. HOMEBUYER EDUCATION SEMINAR

Consultant will conduct two (2) homebuyer education seminars as well as the marketing and outreach for each seminar. The seminars shall cover the following topics:

- *Deciding to become a homeowner*
- *The financial and personal responsibilities of home ownership*
- *Credit – the implications for homeownership*
- *Financing and qualifying for a home loan*
- *Personal financial budgeting and planning*
- *Homebuyer financing programs - public and private sector*
- *Choosing a real estate professional and services*
- *Searching for a property*
- *Negotiating the purchase*
- *Property insurance*
- *Escrow and title procedures*
- *Closing the sale*
- *Responsibilities of homeownership (economic - including default management, personal and physical)*
- *Becoming a community member and neighbor*
- *Direct first-time homebuyers to services and program that will help advance their ability to become a homebuyer*

**Target goal for the homebuyer education seminars: Award certificates of completion to 45 households for completing the FTHB homebuyer education seminars**

### B HOMEBUYER COUNSELING

Consultant duties include conducting free individual personal financial counseling with households meeting the following eligibility criteria and providing further assistance to households who have completed a FTHB educational seminar. Counseling curriculum shall include: 1) preliminary personal financial resource analysis; 2) setting up a purchase plan and 3) focused education on the home buying process.

- *Must be first time homebuyers (participants may not have owned a residential property for at least the past three years)*
- *Must have incomes at or below 120% of Area Median Income (AMI)*
- *Must have steady employment and/or income*
- *Must have credit scores that are above 640 or its equivalent. All individuals/households with lesser scores will be immediately referred over a HUD approved nonprofit counseling agency for credit and debt management.*

- *Must not be overextended with their credit. All individuals/households with overextended credit will be immediately referred over to a HUD approved nonprofit counseling agency for credit and debt management counseling.*

**Target goal for Homebuyer Counseling: Provide individual counseling for 18 eligible households**

#### **IV. INCLUSIONARY HOUSING/BMR OWNERSHIP PROGRAM**

Consultant duties include monitoring of the City's existing inclusionary housing/below market rate ownership units, assisting homeowners with the resale of existing below market units, maintenance of the City interest list for new inclusionary ownership units, marketing of new inclusionary ownership units for sale, and placement of households on the City interest list into new inclusionary ownership units including, but not limited to, the following.

- **DR. Horton, Maple Lane** – BAAHA had conducted a preliminary BMR Program review and analysis for the Maple Lane development. BAAHA's analysis, which was presented to the City and the Developer, identified guidelines and protocols and to conduct the outreach and the placement of the six BMR units to eligible buyers. Upon review and consent by the City and the Developer of BAAHA's analysis and recommendations; BAAHA structured an Affordable Unit Marketing Plan (AUMP) to bring 6 BMR units to market. The plan was presented and approved by the City and DR Horton. Based on the agreement, BAAHA will be involved in providing the following services to DR. Horton and the City:
  - Pre-sales & Marketing phase – will conduct oversee presale and marketing in the 22/23 calendar year.
  - Program Lottery Application and Screening activities –in the 22/23 calendar year
  - Program Approval Underwriting
  - Preparation of Program Documents and oversight of purchase closing activities - in the 22/23 calendar year
- **BMR Interest List** – BAAHA's continued outreach and BMR sales administrative activities have enabled BAAHA to structure a list of live/work San Leandro households that have expressed an interest in purchasing a San Leandro BMR. This list currently contains close to 400 households that BAAHA notifies when San Leandro BMRs become available. Data maintained in the Interest List helps BAAHA to target outreach efforts to households who are best qualified for specific income allowance and bedroom sized BMR units.

**Target goal for the Inclusionary Housing/Below Market Rate Ownership Program: Place 3 households, with preference to City residents or persons employed in the City when applicable per the City's Inclusionary Zoning (or Housing) Ordinance in the Zoning Code into new or existing inclusionary housing units**

#### **V. POST PURCHASE WORKSHOPS AND COUNSELING**

Consultant will conduct one (1) Post Purchase Workshop and follow-up homeowner counseling as needed. The Post Purchase Workshop and Counseling shall complement the FTHB and Inclusionary Housing Programs by assisting participants become better homeowners. Consultant shall administer one workshop based on the following:

- *Workshop participants must either currently own unit under IH/BMR or have an outstanding loan with the FTHB Loan Program.*

- *Workshop (s) topics/curriculum shall include: financial issues and responsibilities of ownership, financial planning and savings during ownership, home maintenance and improvement, home equity, understanding and avoiding predatory lending activity and understanding San Leandro FTHB and Inclusionary Zoning loan and resale agreements.*
- *Individual household counseling services shall be offered to workshop participants covering their specific credit and debt management needs and other homeownership issues.*

## **VII. REPORTING**

In addition to reporting on the progress of meeting the target goals listed above, Consultant shall submit reports every quarter with each quarterly reimbursement request to the City and shall include the following information:

### **A. FIRST TIME HOMEBUYER PROGRAM**

- *Income levels for households (e.g., moderate, low, very low, extremely low)*
- *Race\Ethnicity*
- *Number of households that have completed homebuyer counseling sessions*
- *Number of households who have received a homebuyer education seminar certificate of completion*
- *Number of households who have purchased houses in San Leandro through homebuyer counseling*
- *Number of households who have purchased homes outside of San Leandro through homebuyer counseling*

### **B. INCLUSIONARY OWNERSHIP HOUSING PROGRAM**

- *Number of households on City wait list placed in new inclusionary ownership housing units*
- *Number of new inclusionary ownership housing units for sale (by income type)*
- *Income levels for households placed (e.g., moderate, low, very low, extremely low)*
- *Race\Ethnicity for households placed*

### **C. POST PURCHASE WORKSHOP AND COUNSELING**

- *Number of individuals/households that completed workshop\**
- *Number of households that received follow-up counseling\**  
*\*(by FTHB loan recipients and IH/BMR homeowners)*

## EXHIBIT B

## COMPENSATION SCHEDULE &amp; REIMBURSABLE EXPENSES

City of San Leandro  
 Bay Area Affordable Homeownership Alliance (BAAHA)  
 Homebuyer Program Administrative Budget  
 July 1, 2022 through June 30, 2023



	Units	Charge Per Unit	Total Cost	Cost Per Category
<b>I. General Ongoing Program Administration (not to exceed amounts)</b>				
Ongoing Program administration activities and support	per qtr	\$1,500	\$6,000	
Annual monitoring of BMR/FTHB fee based on 68 units. Fee divided and paid quarterly	68	\$160	\$10,880	
Ongoing real estate professional and community related support activities	per qtr	\$500	\$2,000	
<b>Gross projected costs for program administration (annual)</b>				<b>\$18,880</b>
<b>II. Deliverables (cost will vary based on units delivered)</b>				
	Units	Per Unit	Total Projected Cost	Cost Per Category
*1 Homebuyer education seminar	1	\$3,550	\$3,550	
Homebuyer resource workshop	1	\$2,250	\$2,250	
Post purchase workshop	1	\$1,500	\$1,500	
*2 Homebuyer counseling for BMR and open market purchases	15	\$450	\$6,750	
*3 Administrative fee for sales BMR transactions - new sales and resales / seller paid	2	\$0	\$0	
*4 Refinance of BMR and/or FTHB loans	6	\$500	\$3,000	
Gross projected costs for deliverables (annual)				\$17,050
<b>GROSS PROJECTED ADMINISTRATIVE COSTS</b>				<b>\$35,930</b>

- \*1 Per seminar charges include \$1,800 paid by BAAHA to ECHO Housing for conducting the seminar and \$1,700 paid to BAAHA for coordination and execution of all promotional and administrative activities to deliver the seminar
- \*2 Per household charge. Counseling services are provided by either BAAHA or ECHO Housing. BAAHA's counseling is directed towards households who need additional analysis and assistance to start their home purchase process. ECHO Housing is directed towards households who need financial counseling to structure a financial platform to purchase a home (focus on credit and budget management). BAAHA will be responsible for billing the City of San Leandro and paying ECHO Housing for their services.
- \*3 Seller or buyer (negotiated between seller and buyer) will be responsible for paying \$1,750 administration fee to BAAHA. BAAHA will bill escrow directly for payment of fee.
- \*4 The past two years have yielded two to four BMR refinances per year. BAAHA will advise the City and may request an adjustment in the billing, if there are more than four BMR units refinanced in the 12-month duration of the budget.

**BMR New Sales and Resales Transaction Fees**

Fees received for BMR sales and resales could either be paid to BAAHA through a realtor commission or a Developer Fee.

**BMR resales** will require the Sellers and Buyers to use a realtor of their choice. All sales fees associated with the BMR sale are paid by the seller. Real estate commissions cannot exceed 5% of the BMR resale price. Real estate commissions are added on to the deed restricted price to establish the grossed-up resale price of the Unit. BAAHA anticipates being involved with between one and two San Leandro owned BMR resale transaction in 2022-23. Commissions, if paid for in any of these transaction, will be derived from gross sales of the property; and will not be billed separately.

**Developer Fees** are directly negotiated with and paid to BAAHA by the Developer. Fees are charged for assisting in bringing to market, and assisting in the sale of new BMR units in the subject development. Specific services provided include, and are not limited to: establishing BMR unit pricing in conjunction with the City; outreach; Program screening underwriting and approval; and processing of all City BMR documents. BAAHA anticipate being involved with six (6) to nine (9) new development BMR sales in the 2022-23 contract year. Real estate commissions and developer fees referenced in this section are not charged to the City, and will not be a line item of the above budget.

## EXHIBIT C

### INDEMNIFICATION

Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, elected officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the services called for or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

Consultant shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant's services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.

## EXHIBIT D

The novel coronavirus (“COVID-19”) has been declared a worldwide pandemic by the World Health Organization. The City of San Leandro is currently in a local emergency and state of emergency due to the COVID-19 pandemic.

COVID-19 is extremely contagious and is believed to spread mainly from person-to-person contact, through touched surfaces, and in airborne particles. As a result, federal, state, and local governments, including the City of San Leandro, and federal, state, county, and local health agencies recommend social distancing and additional cleaning protocols to limit the spread of the disease. The City has taken steps and put in place preventative measures recommended by federal, state, and local health agencies to reduce the spread of COVID-19. These measures include steps each person must take to prevent the spread of COVID-19 and include, but are not limited to, requiring face coverings, frequent hand washing and/or use of hand sanitizer, social distancing where possible, limiting of person-to-person contact, frequent cleanings of high-touch surfaces, and avoiding entering any building if they have COVID-19 symptoms.

Consultant shall obey all local orders and abide by all applicable preventative measures recommended by federal, state, county, and local health agencies and any preventative measures specifically implemented by the City. Consultant agrees that when entering any City buildings, Consultant will follow all COVID-19 related signage, wear a face covering, follow all social distancing protocols, and abide by any other COVID-19 preventative measure that are in place when performing the services described in this Agreement. Consultant shall also adhere to any subsequently communicated COVID-19 preventative measures as directed by City staff. The COVID-19 preventative measures are subject to change over time, and Consultant shall maintain knowledge of and adhere to the current COVID-19 preventative measures when interacting with City employees, officials, volunteers, agents, and representatives, and when entering City buildings.



EXHIBIT E

MEMORANDUM OF UNDERSTANDING BETWEEN  
BAY AREA AFFORDABLE HOMEOWNERSHIP ALLIANCE & ECHO HOUSING

MEMORANDUM OF UNDERSTANDING



**FOR:**

Eden Council for Hope and Opportunity (hereinafter referred to as **ECHO or ECHO Housing**) will provide assistance to the Bay Area Affordable Homeownership Alliance (hereinafter referred to as **BAAHA**) in delivering HUD-Certified Homebuyer Education and Counseling for the Cities of San Leandro and Antioch.

**MEMORANDUM OF UNDERSTANDING (MOU):**

This MOU, dated **September 19, 2022**, between **Bay Area Affordable Homeownership Alliance** and **ECHO Housing**, is made in reference to the following recitals:

**PARTIES OF THE MOU:**

**Bay Area Affordable Homeownership Alliance (BAAHA)** is a specialized 501(c)(3) non-profit affordable homeownership Program administrative organization that contracts with and assists municipalities, agencies, employers, and developers in designing and executing financing and purchase programs for first time homebuyers. BAAHA's principals include Roy Schweyer, Executive Director, and Walter Zhovreboff, Administrative Director. The principals of BAAHA have over 50 years of combined experience in the low to moderate income first-time homebuyer industry. BAAHA frequently establishes working relationship with other non-profit and for-profit organizations to help achieve its Program objectives.

The **Eden Council for Hope and Opportunity (ECHO Housing)** was founded in 1964 and incorporated in 1965. ECHO is a U.S. Department of Housing and Urban Development approved full-service housing counseling organization providing services to very low- and moderate-income clients. ECHO's Homebuyer Education assists potential home buyers by providing classroom training regarding credit information, home ownership incentives, home buying opportunities, predatory lending; and provides presentations

by realtors and lenders. Education is provided on a variety of subjects including home ownership responsibilities, government-assisted programs, as well as conventional financing. The 8-hour long class provides education on how to apply for HUD-insured mortgages; purchase procedures, including housing inspections, closing costs, and alternatives for financing the purchase. Budgeting, mortgages, and down payments are discussed. Education also includes information on fair housing and fair lending and how to recognize discrimination and predatory lending procedures, and locating accessible housing, if needed. After completion of the course, each potential homeowner is awarded a Certificate of Completion.

## **OVERVIEW OF TARGET MARKET SERVED**

BAAHA will be working in conjunction with the **City of San Leandro** and the **City of Antioch** (hereinafter referred to as the City Contracts) to assist prospective homebuyers whose incomes range from low to moderate income (incomes from 40% to 120% of the Area Median Income).

The services and resources provided in the MOU will be directed towards providing income-targeted households with homebuyer education and counseling to further prepare them to purchase a home in the identified targeted service area and with the aid of the areas' homebuyer Program.

## **SCOPE OF SERVICES**

The Scope of Services covered in the MOU shall include:

### **Outreach to Communities serviced through Introductory Workshops**

BAAHA in conjunction with its Program participating partners conducts introductory Program workshops. The purpose of these workshops is to further promote services and resources delivered to Program participants through the individual and combined services of the Program partners. It is anticipated that two to three such workshops will be held over the following twelve months.

### **Homebuyer Education**

ECHO will provide HUD-approved homebuyer education to the Contract Cities identified above. BAAHA will be responsible for establishing homebuyer seminar dates, agreed upon by ECHO, and venues and in reserving attendants for the workshops. ECHO and BAAHA will share their lists in order to provide the requisite level of follow up required by the Contract City, Program Administrators, and ECHO Housing.

ECHO will provide the staff and all materials required to conduct the educational homebuyer seminar. ECHO will also allow other Program participating partners to provide further information and resources to assist in the presentation of the Homebuyer Education seminars. ECHO will approve or disapprove the use and material

provided from additional seminar presenters. Additional presenters will most likely include program administrators, lenders, and/or realtors.

**Homebuyer Counseling**

BAAHA will be responsible for maintaining the gatekeeping role to direct and introducing eligible households for counseling to ECHO. BAAHA will screen and make certain that counseling households referred to ECHO are eligible to receive financial support from the City Contracts. All prospective counseled households will be required to submit a program pre-screen application to BAAHA.

BAAHA and ECHO will establish and implement protocols to communicate the status of homebuyer cases referred from BAAHA to ECHO. This is especially important for BAAHA’s reporting purposes mandated by BAAHA’s Contracted Cities. Such communications shall include and not be limited to status lists and, when needed, communications on individual case reports.

**FEE SCHEDULE**

Below is a schedule for fees to be paid by BAAHA to ECHO to fulfill the above scope of services.

*Per Unit Fee Schedule*

<b>Activity</b>	<b>Cost per unit</b>
HUD approved homebuyer education workshop	\$2,000
One on one homebuyer counseling	\$325

**TIMELINE**

BAAHA cannot provide a concrete timeline of events. However, we believe that events, including the assistance of presenting at introductory workshops will commence within forty-five to sixty days of signing this MOU.

BAAHA will do its best to provide adequate lead time to ECHO to prepare and deliver their homebuyer education seminars, and any other activity that requires up front preparation time by ECHO.

## **MISCELLANEOUS PROVISIONS**

**Term of Services** -The term of this MOU shall begin on September 19, 2022, and shall end on September 19, 2023, unless mutually extended BAAHA and ECHO. Any such extension shall be specified in writing.

**Parties of the MOU** – the Parties of the MOU are BAAHA and ECHO.

**Standard of Performance** – The Parties of this MOU shall perform all services required pursuant to this MOU in the manner and according to the standards observed by a competent practitioner of the profession in which Parties are engaged in the geographical area in which Parties practice their profession. Parties shall prepare all work products required by this MOU in a professional manner and shall conform to the standards of quality normally observed by a person practicing in the Parties profession.

**Proprietary Material and Data** – Parties will retain and share at their sole discretion intellectual property, proprietary data, and financial proformas that it utilizes in the exaction of the MOU.

**Assignment of Personnel** – Parties shall assign only competent personnel to perform services pursuant to this MOU.

**Time** - Parties shall devote such time to the performance of services pursuant to this MOU as may be reasonably necessary to meet the standard of performance required to satisfy obligations hereunder.

**Facilities and Equipment** - Except as set forth herein, Parties shall, at their sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this MOU.

### **Status of ECHO**

***Independent Contractor*** At all times during the term of this MOU, Parties shall be independent contractors and shall not be an employee of each other.

***No Agent*** Except as may specify in writing, the Parties shall have no authority, express

or implied, to act on behalf of each other in any capacity whatsoever as an agent. Parties shall have no authority, express or implied, pursuant to this MOU to bind each other to any obligation whatsoever.

### **Legal Requirements**

***Other Governmental Regulation*** To the extent that this MOU may be funded by fiscal assistance from another governmental entity, BAAHA and any subcontractors shall comply with all applicable rules and regulations to which are bound by the terms of such fiscal assistance program.

***Licenses and Permits*** Parties represent and warrant to each other that their employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. BAAHA represents and warrants to ECHO that BAAHA and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this MOU any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, the Parties and any subcontractors shall obtain and maintain during the term of this MOU valid Business Licenses.

***Nondiscrimination and Equal Opportunity*** – the Parties shall not discriminate on the basis of a person’s race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, gender identity, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by BAAHA under this MOU. The Parties shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this MOU, including but not limited to the satisfaction of any positive obligations required of the Parties hereby.

### **Termination and Modification**

***Termination*** – Parties may cancel this MOU at any time and without cause upon thirty day written notification to the Parties. In the event of termination, ECHO shall be entitled to compensation for services performed to the effective date of termination inclusive of fees generated through the delivery of homebuyer education seminar and counseling services.

***Extension*** – Parties through mutual consent extend the end date of this MOU. Any such extension shall be specified in writing.

***Amendments*** The Parties may amend this MOU only in writing signed by all the parties.

***Non-Exclusivity*** Parties recognize and agree that this MOU contemplates personal performance by both parties is based upon a determination of each other’s unique professional competence, experience, and specialized professional knowledge. It is also

understood by both Parties that they are involved with other contractors and parties to perform similar activities required to fulfill their objectives and duties in their profession. This MOU does not preclude such activity and does not require exclusivity and approval of either Party to perform such activities.

**Survival** All obligations arising prior to the termination of this MOU and all provisions of this MOU allocating liability between the Parties shall survive the termination of this MOU.

**Notices** Any written notice to BAAHA shall be sent to:

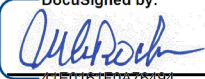
Walter Zhovreboff  
Administrative Director  
Bay Area Affordable Homeownership Alliance (BAAHA)  
5517 Geary Blvd, Suite 206  
San Francisco, CA 94121

Any written notice to ECHO Housing shall be sent to:

Marjorie A. Rocha  
Executive Director  
Eden Council for Hope and Opportunity (ECHO Housing)  
22551 Second Street, Suite 200  
Hayward, CA 94541

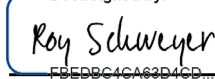
The Parties have executed this MOU as of the Effective Date.

**ECHO Housing**

DocuSigned by:  
  
41E0161F0A76494...  
Marjorie A. Rocha,  
Executive Director

9/23/2022  
\_\_\_\_\_  
Dated

**BAAHA**

DocuSigned by:  
  
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Roy Schweyer,  
Executive Director

9/22/2022  
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Dated