**CONTRACT NO.**

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

**AGREEMENT FOR PROFESSIONAL SERVICES**

**^ [Contractor Name]**

**THIS AGREEMENT,** made and entered into as of the **^ day of ^ 20**__, by and between the **MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**, a public body corporate and politic, Lansing, Michigan (hereinafter referred to as the **"Authority")** and **^ [Contractor Name]** (hereinafter referred to as the **"Contractor"**).

**WITNESSETH THAT:**

The Authority and the Contractor do mutually agree as follows:

1. **Services Rendered/Scope of Work.** That the Contractor shall, in a satisfactory and proper manner as determined by the Authority, render the services described in Exhibit I, which is attached and made a part of this Agreement.

2. **Term.** This Agreement shall cover work performed by the Contractor during the period of time ending **[date]**.

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3. **Contract.** Price and Payment.

   a. The total amount to be paid by the Authority to the Contractor under this Agreement shall not exceed **[spell out amount] ($).**

   b. Billings for services will be based on an hourly rate not to exceed **$ per hour** for professional services. Out-of-pocket expenses to be reimbursed at the regular per diem rate in effect when services are rendered.

   c. Payment will be made upon presentation of invoices submitted periodically for work performed. Invoices should be submitted to the **^[specify office and division of the Authority]^** of the Authority and should include the following:

      (1) Authority's contract number as shown above.

      (2) Specific service performed and development name and number, if applicable.

      (3) Amount paid to date on this contract.

      (4) Number and amount of this invoice.

   Final payment shall be made upon the satisfactory completion and submission of all required work and documents.

4. **Record Keeping.** The Contractor shall maintain such personnel records as are deemed necessary by the Authority to assure a proper account for all engagement costs. These records will be made available for audit purposes to the Authority and the Auditor General of the State of Michigan, or any authorized representative, and will be retained for three years after the expiration of the Agreement unless permission to destroy them is granted by both the Authority and the State of Michigan.

5. **Nondiscrimination.** In accordance with Acts No. 220 and 453 of the Public Acts of 1976, as amended, the Contractor hereby agrees in connection with the performance of services under this Agreement not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, marital status or handicap. Breach of this covenant may be regarded as a material breach of this Agreement.

6. **Failure to Perform. I**n the event the Contractor fails to perform services required under this Agreement or performs services hereunder in an improper manner, the parties hereto agree that the damage that the Authority will sustain as a result thereof will be substantial but will be difficult, if not impossible, to ascertain, and therefore, the parties hereto agree that in the event of the Contractor's failure to perform services required hereunder or the Contractor's performance of services in an improper manner, the Authority shall be entitled to a credit against the Contractor's current unpaid billings for amount previously paid to the Contractor after the Contractor's non-performance of improper performance. For the purposes of the foregoing, the parties hereto agree that the Authority shall have sole discretion in determining the adequacy of the Contractor's performance and the amount of credit to be taken. The damages for the Contractor's inadequate or improper performance, as provided herein, shall not be exclusive but shall be in addition to any other damages which the Authority may be entitled to for the Contractor's default under this Agreement.

7. **Assigned Personnel.** The Contractor hereby represents that the personnel it will assign to perform the services under this contract shall possess the requisite education, competence and experience to perform such services. The Contractor further acknowledges and agrees

that such personnel may be subject to the evaluation and approval of the Authority, who shall retain the right to determine the sufficiency of the education, competence and experience of the personnel assigned to perform the services identified in the attached exhibit of this contract.

8. **Employees of Contractor or Key Persons.**

**a. Definition of Key Person. "Key Persons"** shall be defined in this Agreement as individuals who perform services pursuant to this Agreement and (a) sign this Agreement on behalf of the Contractor and/or (b) are listed in Exhibit II of this Agreement.

**b. Performance of Services.** The Contractor acknowledges that only Key Persons shall perform the services under this Agreement. Key Persons include the names of all employees, agents and independent contractors of the Contractor who perform or render services pursuant to this Agreement.

**c. Exhibit II--Certificate Verifying Key Persons.** Prior to executing this Agreement, the Contractor shall provide to the Authority the names of all Key Persons by completing Exhibit II, which is the Certificate Verifying Key Persons of the Contractor ("Certificate"). In the event the Contractor fails to provide to the Authority the names of any Key Persons, the parties shall consider the signatory for the Contractor to be the sole Key Person for the Contractor. If the Contractor wishes to add an agent, employee, or independent contractor as a Key Person during the term of this Agreement, the Contractor shall complete and submit to the Authority a Certificate for that employee, agent, or independent contractor.

**d. 2007 PA 95, MCL 38.68c.** The Contractor and its employees, agents, and independent contractors acknowledge 2007 PA 95, MCL 38.68c requires retirees of the State Employees Retirement System ("Pensioned Retirees") who become employed by the State either directly or indirectly through a contractual arrangement with another party on or

after October 1, 2007 to forfeit their state pension for the duration of their reemployment. **PENSIONED RETIREES WHO PROVIDE OR RENDER SERVICES PURSUANT TO THIS CONTRACT AND ARE DETERMINED TO BE EMPLOYEES OF THE STATE MAY FOREFEIT THEIR PENSIONS. THE CONTRACTOR ACKNOWLEDGES THAT ALL PENSIONED EMPLOYEES HAVE BEEN ADVISED TO SEEK LEGAL COUNSEL TO DETERMINE IF THEY MAY BE DEEMED EMPLOYEES OF THE STATE. THE CONTRACTOR AND THE PENSIONED RETIREES IT EMPLOYS ACKNOWLEDGE AND AGREE THAT NEITHER THE STATE, NOR THE AUTHORITY, NOR ITS EMPLOYEES, DIRECTORS, AGENTS NOR BOARD SHALL BE LIABLE TO THE CONTRACTOR OR PENSIONED RETIREE IF IT IS DETERMINED AT ANY TIME THAT THE PENSIONED RETIREE IS DEEMED TO BE AN EMPLOYEE OF THE STATE AND MUST THEREFORE FORFEIT HIS OR HER PENSION.**

9. **Conflicts of Interest**. Prior to the execution of this Agreement, the Contractor acknowledges and confirms that it has delivered to the Authority a written list of all interests of the Contractor, or it officers and employees, which may create conflicts between the interests of those entities or parties and the interests of the Authority. The Contractor acknowledges that its employees, members, shareholders, agents, or independent contractors prior to or during the term of this Agreement are not employees of the State of Michigan or its units. Should a conflict of interest arise during the term of this Agreement, the Contractor shall contact the Authority's Director of Legal Affairs immediately and describe in detail the conflict of interest.

10. **Participation in Other Authority Programs.** With the exception of providing services to the Authority as described in Exhibit I of this Agreement, neither the Contractor nor the Contractor's employees, agents, officers, directors, shareholders or members will participate in Authority housing programs or do business with the Authority under any program in which the Authority has a direct or indirect relationship without securing approval from the Authority's Director of Legal Affairs.

11. **Indemnity.** The Contractor agrees to defend, indemnify and hold harmless the Authority from any claims, damages or expenses, including reasonable attorneys' fees, arising or alleged to arise in whole or in part from damage or injury caused by or resulting from any action or inaction of the Contractor, its agents or employees, or sustained in connection with the violation of any law, statute, ordinance or regulation by the Contractor, its agents or employees, or sustained in connection with the performance of this Agreement by the Contractor, its agents or employees, or sustained as a result of any breach of this Agreement by Contractor.

12. **Delegation.** The Contractor shall not delegate any duties or obligations under this Agreement to a subcontractor or independent contractor unless the Authority's Director of Legal Affairs has given written consent to the delegation. When submitting the request to subcontract, the contractor shall include the following information about the subcontractor:

    **a. Name of Subcontracting Firm;**
    **b. Work that will be subcontracted;**
    **c. Names of individuals who will perform the subcontracted work:**
    **d. List any and all Authority programs through which the subcontractor or the subcontractor's employees, officers, directors, members, shareholders or officeholders participate**

Delegation of duties or obligations under this Agreement to a subcontractor or independent contractor without the prior written consent of the Authority shall be a material breach of this Agreement. In the event a subcontractor is approved by the Authority's Director of Legal Affairs, the Key Persons for the Contractor shall be subject to the requirements set forth in Section 8 (Employees of Contractor or Key Persons) of this Agreement.

13. **Independence of Contractors.** The Authority shall retain the Contractor as an independent contractor, and the Contractor hereby accepts such independent contractor relationship, upon the terms and conditions set forth in this Agreement. Nothing in this Agreement shall be construed to create the relationship of employer and employee between the Authority and the Contractor or any of its employees or agents. The Contractor, its employees and Contractors, shall be deemed at all times and for all purposes to be independent contractors. The Contractor acknowledges and agrees that all payments by the Authority to the Contractor shall be made without deduction for federal, state or local income taxes, social security taxes and similar items, and that the Contractor shall be solely responsible to report income under this Agreement to the Internal Revenue Service and other appropriate taxing authorities and to pay such taxes (including, without limitation, being solely responsible to make periodic estimated payments of such taxes in accordance with applicable law). The Contractor further acknowledges and agrees that all payments under this Agreement to the Contractor by the Authority shall be reported to the Internal Revenue Service and other appropriate taxing authorities on Form 1099 (or equivalent or replacement forms). Finally, the Authority acknowledges that the manner and means of producing the services described in Exhibit I are under the control and at the discretion of the Contractor.

14. **Ownership of Documents and Reports.** All documents and reports delivered to the Authority shall be the property of the Authority.

15. **Disclosure of Information.** Neither the Contractor nor its agents or contractors, shall disclose information or documents created or maintained in connection with this agreement to anyone, without the prior consent of the Authority. Neither the Contractor nor its agents or contractors, shall use information or documents created or maintained in connection with this agreement to further any private interest, other than as contemplated by this Agreement, without the prior consent of the Authority.

16. **Termination of Agreement.** This Agreement may be terminated with notice at any time by the Executive Director. However, the Contractor shall be compensated hereunder for services satisfactorily performed prior to the date of termination.

17. **Michigan Law.** This Agreement shall be governed by the laws of the State of Michigan and shall be binding upon the Contractor's successors, assigns, and legal representatives.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

# DRAFT

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

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

**Date:** _____ **By:** _____

^

**Date**: _____ **By:** _____

^

# "THIS MODEL IS A DRAFT AND IS SUBJECT TO REVISION IN WHOLE OR IN PART BY THE AUTHORITY'S OFFICE OF LEGAL AFFAIRS"

# DRAFT

**[USE ONLY IF CD TECHNICAL ASSISTANCE CONTRACT]**

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

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

**Date: _____** **By: _____**
**Director of Community Development**

^

**Date**: **_____** **By: _____**
^

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## EXHIBIT II

### CERTIFICATE VERIFYING KEY PERSONS OF THE CONTRACTOR

**The Contractor acknowledges that the following personnel are Key Persons of the Contractor in accordance with Section 8 of the Agreement:**

(1) Name _____
*(Print or type name above line)*

Title with Contractor _____

**Is the Key Person a retiree who receives a pension from the Michigan State Employees Retirement System? Yes_____/No_____**

(2) Name_____
*(Print or type name above line)*

Title with Contractor _____

**Is the Key Person a retiree who receives a pension from the Michigan State Employees Retirement System? Yes_____/No_____**

(3) Name_____
*(Print or type name above line)*

Title with Contractor _____

**Is the Key Person a retiree who receives a pension from the Michigan State Employees Retirement System? Yes_____/No_____**

By:_____ _____
Signature Date

Name of Signatory for Contractor: _____
*(Print or type name of Signatory above Line)*

Its:_____

Federal Identification Number:_____