

CONTRACT NO. 18-06-RAHS

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

AGREEMENT FOR PROFESSIONAL SERVICES

WITH

ENVIRONMENTAL TESTING & CONSULTING, INC

THIS AGREEMENT is made and entered into as of the **1st day of June 2018**, by and between the **MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**, a public body corporate and politic, located at 735 E. Michigan Avenue, Lansing, Michigan 48912 ("**Authority**" or "**MSHDA**") and **Environmental Testing & Consulting, Inc, ("ETC")** a Michigan Corporation, located at 38900 W Huron River Dr., Romulus, MI 48174, ("**Contractor**") for the purpose of providing the Authority with a certified Lead-Based Paint Risk Assessor to perform Environmental Investigations ("EI") and Risk Assessments ("Assessment") on identified units and/or any common areas that service the identified units. **(The Authority and the Contractor are collectively referred to as the "Parties").**

WITNESSETH THAT:

The Authority and the Contractor do mutually agree as follows:

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

2. **Term.** TIME IS OF THE ESSENCE to this Agreement in connection with the delivery of the products or services or both ("Products and Services") described in the Scope of Work attached and incorporated into this Agreement as Exhibit A. The performance of Products and Services shall begin on or after the execution of this Agreement by the Authority and shall be completed no later than May 31, 2021.

3. **Contract.** Price and Payment.
 - a. The total amount to be paid by the Authority to the Contractor under this Agreement shall not exceed **Three Hundred Thousand Dollars. (\$300,000.00).**
 - b. Work rates shall not exceed those as provided in Exhibit B entitled "Cost Tables" attached and incorporated into this Agreement. Out-of-pocket expenses are to be reimbursed at the regular per diem rate and Authority policy in effect when Products and Services are rendered.
 - c. Payment will be made upon presentation of invoices submitted periodically for work performed. Invoices should be submitted to the Procurement, Attn: Joe Kelly, 735 E. Michigan Ave., Lansing, MI 48912 or MSHDA-Procurement@michigan.gov and must include the following:
 - i. The Authority's contract number as shown above.
 - ii. Specific service performed and development/unit name and number, if

applicable.

- iii. Amount paid to date on this Agreement itemized by monthly expenditures and total expenditures to date.
- iv. Number and amount of this invoice.
- v. Division for whom services were performed.
- vi. Name of point of contact for services that were performed.
- vii. Contractor staff member(s) and their hourly rate(s) who performed the services being invoiced.

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

- d. **WORK PERFORMED OR PROVIDED PRIOR TO THE TERMS OF THIS AGREEMENT SHALL NOT BE ELIGIBLE FOR PAYMENT.**

4. **Permits and Licenses.** The Contractor shall be responsible for obtaining any and all permits, licenses, and other proper authorization or permission-related documents required for the performance of this Agreement.

5. **Insurance.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the Michigan State Housing and Development Authority, its, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
Professional Liability (Errors and Omissions) Insurance	
<u>Minimal Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide claims-made coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of performance of Scope of Work; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase

extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator (see Section 11 below), containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Agreement (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

6. **Record Keeping.** The Contractor and the Authority 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.

7. **Reports.** The Contractor shall promptly submit to the Authority's **Contract Administrator**/designated project representative (see Section 11) any reports prescribed in Exhibit A attached and incorporated into this Agreement. Such reports shall include but not be limited to: progress reports, a report of all receipts, expenditures, project activities

and accomplishments, including a comparison of the final budget to the approved Project Budget, Exhibit B attached and incorporated into this Agreement, and supporting documentation for claimed reimbursements. The Authority shall prescribe the requisite form and content of reports and shall designate the dates on which the reports are to be submitted by the Contractor and subcontractor. Before the occurrence of the project completion date prescribed in Section 2 of this Agreement, the Contractor shall submit to the Authority both a project completion report and a proper final claim for expenditure reimbursement, which shall be supported by documentation of the expenditures claimed.

In addition to the project completion report and other submissions, the Contractor shall submit to the Authority a quarterly progress report in the form and containing the completion material prescribed by the Authority for that project period for each quarter this Agreement is in effect. If required, quarterly reports shall be submitted not later than as outlined in the Performance Schedule, Exhibit A attached and incorporated into this Agreement.

8. **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 Products and 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, familial status, or disability. Breach of this covenant may be regarded as a material breach of this Agreement.

9. **Failure to Perform.** In the event the Contractor fails to perform Products and Services

required under this Agreement or performs Products and Services in an improper manner, the Parties agree that the damage that the Authority will sustain as a result thereof will be substantial and difficult, if not impossible, to ascertain. Therefore, the Parties agree that in the event the Contractor either fails to completely perform Products and Services or performs Products and Services in an improper manner, the Authority shall be entitled to a credit against the Contractor's current unpaid billings for amounts previously paid to the Contractor after the Contractor's non-performance or improper performance. For the purposes of the foregoing, the Parties 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 in this Agreement, 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.

10. **Assigned Personnel.** The Contractor warrants that the personnel it will assign to perform the Products and Services under this Agreement shall possess the requisite education, competence and experience. 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 Products and Services identified in Exhibit A attached and incorporated into this Agreement.

11. **Project Representatives.** The Contractor designates the following individual as project representative for all matters concerning this Agreement:

Leo Wall, Senior Project Manager
Environmental Testing & Consulting, Inc.
38900 W Huron River Dr., Romulus, MI 48174

Phone: 734-649-9682
Fax: 734-955-6604
Leo.Wall@2etc.com

The Authority designates the following individual as **Contract Administrator**/project representative to be the initial point of contact for all matters concerning this Agreement:

Joe Kelly, Buyer
MSHDA Procurement
735 E. Michigan Ave., Lansing, MI 48912
Phone: 517-256-1873
Fax: 517-335-0125
MSHDA-Procurement@michigan.gov

Except for changes to the performance schedule (not including the project's completion date), the designated project representatives shall have no authority to make promises or binding obligations on behalf of the Authority, as such authority rests with the duly authorized persons executing this Agreement.

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

- a. Definition of Key Person. “**Key Persons**” shall be defined in this Agreement as individuals performing the Products and Services pursuant to this Agreement and (a) have signed this Agreement on behalf of the Contractor and/or (b) are listed in Exhibit C, attached and incorporated into this Agreement. Key Persons include the names of all employees, agents and independent contractors of the Contractor who perform or render Products and Services pursuant to this Agreement.
- b. Performance of Products and Services. The Contractor acknowledges that only Key Persons shall perform the Products and Services under this Agreement.
- c. Exhibit – D 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 D, which is the Certificate Verifying Key Persons of the Contractor or a Subcontractor, if applicable (“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 (or Subcontractor) 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 an additional or revised Certificate for that employee, agent, or independent contractor.** (See Section 12a of this Agreement.)

- d. 2007 PA 95, MCL 38.68c. The Contractor and its employees, agents, and independent contractors acknowledge 2007 PA 95, MCL 38.68c, as amended, requires retirees of the State Employees Retirement System (i.e., former state employees who have pensions with the State of Michigan) (“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. Effective October 2, 2010, “employed by the state” includes engagements of pensioned retirees as independent contractors.

Pensioned retirees who provide or render Products and Services under this Agreement as key persons must forfeit their pensions during the term of this Agreement if the pensioned retiree (a) is employed by the State, (b) is employed by the Contractor, (c) is a holder of an ownership interest in the Contractor, (d) is a subcontractor of the Contractor, or (e) is an employee of a subcontractor.

The Contractor acknowledges and agrees to secure the Authority's prior written consent before retaining, employing or subcontracting with a pensioned retiree to perform Products and Services under this Agreement. Retaining, employing or subcontracting with a pensioned retiree to perform Products and Services under this Agreement without the Authority's prior written consent shall be (a) a material breach of this Agreement and (b) grounds for the Authority to terminate this Agreement and provide notice to the Office of Retirement Services that the retiree has received pension payments and payments directly or indirectly through this Agreement.

If the Contractor employs or retains a pensioned retiree as a key person or subcontracts with a pensioned retiree, the Contractor must submit a copy of the pensioned retiree's directions to the Office of Retirement Services ("ORS"), identified as Exhibit D attached and incorporated into this Agreement, to withhold the retiree's pension payments during the term of this Agreement.

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 for the forfeiture of the retiree's pension payments during or after the term of this Agreement. The Contractor and pensioned retiree acknowledge that the Authority has no responsibility to confirm whether the ORS has or will forfeit the retiree's pension.

13. **Conflicts of Interest.** The Contractor acknowledges that its employees, members, shareholders, agents, or independent contractors, or subcontractors and their employees, members, shareholders and agents, prior to or during the term of this Agreement are not employees of the State of Michigan or its units. 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 its officers and employees, which may create conflicts between the interests of those entities or parties and the interests of the Authority. Should a constructive or actual 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.
14. **Prohibited Methods and Procedures.** The Contractor and its agents, subcontractors, employees, and representatives, in the course of the performance of Products and Services under this Agreement, shall not specify, recommend, use, or permit the use of any system, method, plan, design, process, procedure, patent, or copyright which, if used, infringes upon a proprietary interest or necessitates the payment of any royalty, fee, or commission. The Contractor shall not use or permit the solicitation for or securing of any agreement or employment in connection with this Agreement upon an agreement or arrangement for payment, either directly or indirectly, of a commission, percentage, brokerage, or contingent fee.

If Federal funds are used to pay the Contractor under this Agreement, no part of the money appropriated by any enactment of Congress shall, in the absence of express authorization

by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to members of Congress on the request of any member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. 18 U.S.C. § 1913 (2002).

15. **Participation in Other Authority Programs.** With the exception of providing Products and Services to the Authority as described in Exhibit A of this Agreement, neither the Contractor nor the Contractor's employees, agents, officers, directors, shareholders, members or subcontractors 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.

16. **Indemnity and Non-Limitation. Mich. Const. art. IX, § 18.** 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.

In any and all claims against the Authority or any of its officers, agents, or employees by an employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation in the amount or type of damages, compensation, or benefits payable by or for the Contractor or by or for any subcontractor under worker's compensation acts, disability benefit acts, or other employee benefit acts.

17. **Nonassignability and Delegation.**

a. The Contractor shall not assign or otherwise transfer any interest in this Agreement or in the project in any manner not provided for in this Agreement.

b. The Contractor shall not delegate any duties or obligations under this Agreement to a subcontractor or independent contractor unless the Authority's Contract Administrator and 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:

- i. **Name of Subcontracting Firm;**
- ii. **Work that will be subcontracted;**
- iii. **Names of individuals who will perform the subcontracted work;**
 - iv. **Subcontractors project representative and/or Key Person (See Section 12); and**
 - v. **List any and all Authority programs through which the subcontractor or the subcontractor's employees, officers, directors, members, shareholders or officeholders participate.**

c. In the event the Contractor retains a subcontractor in accordance with Section 17b above, the Contractor shall insert into each subcontract executed in connection

with this Agreement appropriate and enforceable provisions requiring compliance with this Agreement by the subcontractor and the persons acting for it. Throughout the performance of any subcontracts, the Contractor shall monitor and verify the compliance of all subcontractors and persons acting for them and shall immediately take any affirmative or remedial measures prescribed by the Authority or otherwise deemed necessary in the opinion of the Contractor for enforcing compliance under such subcontracts.

d. **Delegation of duties or obligations under this Agreement to a subcontractor or independent contractor without the prior written consent of the Authority's Contract Administrator or Director of Legal Affairs shall be a material breach of this Agreement.** In the event a subcontractor is approved by the Authority's Contract Administrator and Director of Legal Affairs, the Key Persons for the subcontractor shall be subject to the requirements set forth in Section 12 (Employees of Contractor or Key Persons) of this Agreement, including, but not limited to, the restrictions on pension payments if a pensioned retiree is a Key Person of the subcontractor or an independent contractor retained by the Contractor.

Subcontracting work to be performed under this Agreement without the prior written consent of the Authority's Contract Administrator and Director of Legal Affairs shall be a material breach of this Agreement.

18. **Suspension and Debarment.** Pursuant to 1980 PA 278; MCL 423.322 *et seq.*, the Contractor, in performing this Agreement, shall not enter into a contract with a subcontractor, manufacturer, or supplier whose name has been listed in the register maintained by the State of Michigan, Department of Licensing and Regulatory Affairs, of

employees who have been found in contempt of court by a federal court of appeals, on not less than three occasions involving different violations during the preceding seven years, for failing to correct an unfair labor practice as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 U.S.C § 158.

The Authority may void this Agreement if the name of the Contractor or the name of a subcontractor, manufacturer, or supplier used by the Contractor in performing this Agreement subsequently appears in the register during the period of this Agreement.

The Contractor certifies, by signing this Agreement, that it possesses business integrity and that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in grants or contracts by any federal, state, or local department or agency.

The suspension of the Contractor by the State of Michigan, an agency of the State or a department of the Federal Government, shall be at the option of the Authority, a material breach and grounds for the immediate termination of this Agreement.

19. **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 subcontractors, shall be deemed at all time 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 Products and Services described in Exhibit A are under the control and at the discretion of the Contractor.

20. **Ownership of Documents, Reports and Other Products.** All documents, reports and any other products developed and/or delivered to the Authority under this Agreement shall become and be the property of the Authority.
21. **Disclosure of Information.** Other than as contemplated by this Agreement, the Contractor, its agents, and subcontractors, without the prior consent of the Authority shall not:
- a. disclose information or documents created or maintained in connection with this Agreement to anyone;

- b. use information or documents created or maintained in connection with this Agreement to further any private interest.

Use or disclosure of documents or information without the prior written consent of an authorized officer of the Authority shall be a material breach of this Agreement.

- 22. **Modifications.** The Authority or the Contractor may request modification of the scope of work, products, budget, or project work schedule to be performed by the Contractor. Modifications shall comport with the intent and purpose of this Agreement and shall be consistent with applicable state and federal regulations, limitations, guidelines, policies, and interpretations prescribed by the Authority pursuant to law. All requests for modification shall be submitted in written form by the duly authorized representative, as specified in Section 11, of the party requesting modification prior to modification implementation. Failure to obtain prior approval will result in the disallowance of expenditures.

No verbal representation, understanding, agreement, or interpretation of any officer, agent, employee of the Authority or Contractor, either before or after execution of this Agreement, shall modify any of the terms of this Agreement, unless such representation, understanding, agreement, or interpretation is expressly stated in this Agreement or an amendment to this Agreement executed by both parties.

- 23. **Termination of Agreement.** Termination is the cancellation of this Agreement, in whole or in part, at any time prior to the date of completion.

- a. Termination for cause. The Authority may terminate this Agreement, in whole or in

part, at any time before the date of completion, whenever it is determined that the Contractor has failed to comply with the terms and conditions of this Agreement. The Authority will promptly notify the Contractor in writing of the termination and the reasons for the termination, together with the effective date. Payments made to the Contractor or recoveries by the Authority under this Agreement when it is terminated for cause will be in accordance with the legal rights and liabilities of the parties.

- b. Termination for convenience. The Authority or the Contractor may terminate this Agreement in whole or in part when the Parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The Parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. An amendment of the terms of this Agreement is required for all terminations for convenience.
- c. Termination by Contractor. At any time prior to the first payment on the Agreement, the Contractor may, with written notification to the Authority, unilaterally cancel this Agreement. Once initiated, no Product or Services financed with Authority assistance shall be terminated by the Contractor prior to satisfactory completion without approval of the Authority. After the first payment, the Product or Services may be terminated, modified, or amended by the Contractor only by mutual agreement of the Parties. Termination requests prior to completion of the Product or Services must fully explain the reasons for the action and detail the proposed disposition of the uncompleted Product or Services.
- d. Termination of Agreement for Unavailability of Authority or Federal Funds.
It is the intent and understanding of the Parties that this Agreement is contingent

upon the availability of Authority or Federal funds or the receipt by the Authority of Federal funds. If Authority funds or Federal funds approved or obligated by the Authority in connection with this Agreement are at any time rendered unavailable, the Authority shall then have the right to terminate this Agreement by the giving of a written notice, the basis, and the effective date of the termination to the Contractor. Should this Agreement be terminated by reason of the unavailability of Authority or Federal funds for the purposes of this Agreement, all finished or unfinished documents, data, studies, reports, and other materials prepared by the Contractor under this Agreement prior to the effective date of the termination shall be delivered in a format specified by the Authority.

In the event of termination under this section for lack of Authority or Federal funds, the Contractor shall be entitled to receive payment for Products and Services incurred under this Agreement prior to the effective date of termination.

- e. Commitments. If this Agreement is terminated, the Contractor will not incur new obligations for the terminated portion after the effective termination date. The Contractor will at its own expense cancel any outstanding obligations. Costs incurred after the effective date of the termination will be disallowed. In the event of termination, all finished or unfinished documents, data, studies, reports, and other materials prepared by the Contractor under this Agreement prior to the effective date of termination shall become the property of the Authority. The Contractor will provide all finished and unfinished material as previously described within 30 days of terminating. However, the Contractor will be entitled to retain copies. The

Contractor, in the event of termination under this provision, is entitled to receive reimbursement for Products and Services satisfactorily performed under this Agreement prior to the effective date of such termination. Notwithstanding the foregoing, the Contractor shall not be relieved of its liability to the Authority for the damages sustained by the Authority as the result of any breach of this Agreement until the Authority so releases the Contractor and has determined for the purpose of set-off the exact amount of damages due the Authority.

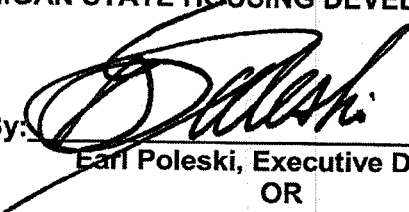
24. **Severability of Provisions.** It is declared to be the intent of the Parties that if any provision of this Agreement executed by both parties or its application to any persons or circumstances is adjudged by any court of competent jurisdiction to be invalid, the court's judgment shall not affect or invalidate the remainder of this Agreement nor its application to other persons or circumstances, unless so provided by the court or unless the severance of the invalid provision alters the basic intent or purpose of this Agreement, would cause an increase of the Authority's financial obligation, or renders impossible the compliance with any applicable statute, regulation, limitation, guideline, policy.
25. **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. All records pertinent to this Agreement are subject to public disclosure under the Michigan Freedom of Information Act; 1976 PA 442; MCL 15.231 *et seq.* The Contractor shall insert the provisions of this section into any subcontract entered into to accomplish the terms of this Agreement.

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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: 14 JUNE 2018

By: 
Earl Poleski, Executive Director
OR
Brian Mills, Chief of Staff

ENVIRONMENTAL TESTING & CONSULTING, INC

Date: _____

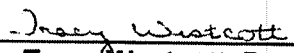
By: 
Tracy Westcott, President

EXHIBIT A – SCOPE OF WORK

Objectives, Tasks & Activities

I. Overview

The Michigan State Housing Development Authority (“MSHDA” or “Authority”), in accordance with the Department of Housing and Urban Development (“HUD”) regulations for the Housing Choice Voucher and Project-Based Voucher Programs, is contracting a certified Lead-Based Paint Risk Assessor to perform Environmental Investigations (“EI”) and Risk Assessments (“Assessment”) on identified units and/or any common areas that service the identified units.

The Contractor will also advise and educate Authority representatives related to contract services sought as outlined below.

Risk Assessment

If it is identified that a child less than the age of 6 has an elevated blood lead level (“EBLL”) in a unit where MSHDA provides rental assistance and the household invokes their right to move from the unit, then the new unit may require an Assessment. If the household selects a unit constructed prior to 1978, and a child less than the age of 6 will reside in the new unit, then a Risk Assessment must be completed as outlined in HUD PIH 2017-13 dated August 10, 2017.

An Assessment must be completed in accordance with Michigan laws (Michigan Lead Abatement Act and Lead Hazard Control Rules) and Chapter 5, Risk Assessment, of HUD’s Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (current edition) (the HUD Guidelines).

https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines

Environmental Investigation

Impacted units will be identified by MSHDA, in partnership with the Department of Health and Human Services Healthy Homes Program (“DHHS-HHP”), in accordance with Standard Operating Procedure. If it is identified that a child less than the age of 6 has an EBLL in a unit where MSHDA provides rental assistance and the unit was constructed prior to 1978, then an EI must be completed as outlined in HUD PIH 2017-13 dated August 10, 2017.

EI, as defined by HUD in PIH 2017-13, is as follows:

A risk assessment with additional questions for the family regarding other sources of lead exposure (e.g., water, pottery, daycare settings), and testing of other potential sources of lead exposure in accordance with Chapter 16, Investigation And Treatment Of Dwellings That House Children With Elevated Blood Lead Levels, of HUD’s Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (current edition) (the HUD Guidelines).

https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines

Notes: Chapter 16 of the HUD Guidelines includes a detailed description of the differences between an environmental investigation and a risk assessment. Testing includes, at a minimum, house dust, paint/coatings that are not intact or subject to friction, and bare soil, especially in play areas. Testing of drinking water is done in certain circumstances, based on the family questionnaire, discussion with the child's case manager, and additional information, such as knowledge that the community drinking water is known to be at risk; the family's home is served by a private well; history suggests contamination; or no other sources of lead can be found.

II. Objectives, Tasks & Activities

A. Objectives. To successfully perform the services described in Section III above, the Contractor must meet the following general objectives:

1. MSHDA requires the Contractor to be available on a fee-for-service basis.
2. All Assessments must be conducted within ten (10) calendar days of the request from MSHDA. All reports must be submitted to MSHDA within fifteen (15) calendar days from the date of the conducted Assessment.
3. All EI must be conducted within fifteen (15) calendar days of request from MSHDA. All EI reports must be submitted to MSHDA within forty-five (45) calendar days from the date of the conducted EI.
4. This Agreement provides MSHDA the ability to schedule the Assessment or EI with the Contactor and be invoiced monthly for services rendered.
5. The Contractor will contact the household to verbally schedule the Assessment or EI. The Contractor will send a written confirmation of the scheduled date and time to the household, owner of the subject unit, and the Authority.
6. MSHDA is able to cancel a scheduled Assessment or EI with a tiered pricing schedule. See Exhibit B Cost Tables attached and incorporated into this Agreement.
7. The Contractor will provide a summary sheet of the repairs required in all Assessment and EI reports.
8. The Contractor will e-mail the full Assessment and EI reports to appropriate Authority staff.
9. The Contractor will mail the Assessment and EI reports to the household and the owner of the subject unit.
 - i. The owner report will be redacted to protect the privacy of the household.

- ii. The household report will be the full report.
10. The EI report provided to MSHDA will be shared with another government agency (DHHS-HHP).
 11. Invoices will be submitted to the designated Authority staff monthly. Invoices will show charges for personnel and expense classifications. (see 3c)

EXHIBIT B – COST TABLES

Environmental Investigation Without Water Testing	Pricing
Apartment including common areas	\$995
All other units including common areas	\$475 (includes common areas)
Environmental Investigation With Water Testing	Pricing
Apartment including common areas	\$995
All other units including common areas	\$475 (includes common areas)
Additional Environmental Investigation Based on initial results of the subject unit and common areas previously stated	Pricing
Apartment including common areas	\$995
Townhome or duplex including common areas	\$475 (includes common areas)
Risk Assessment	Pricing
Apartment including common areas	\$475
All other units including common areas	\$475
Water Testing (Pb/Cu)	\$25 per sample
Mileage rates (beyond 150 miles, one-way)	
150 - 249 miles (one-way)	+ \$75
250 – 449 miles (one-way)	+ 400 *
450 – 599 miles (one-way)	+ \$600 *
Beyond 600 miles (one-way)	+ 775 *
*includes per diem and lodging fee of \$125 per day	

Date of Cancellation	Percentage of Full Cost to be Invoiced
On or before the 10 th calendar day of the scheduled date	No Charge
Between the 9 th and 6 th calendar day of the scheduled date	No Charge
Between the 5 th and 2 nd calendar day of the scheduled date	No Charge
One calendar day before the schedule date	15% *
On the scheduled date	30%**

*if job scheduled more than 100 miles (one-way) from Romulus headquartered office then 30% of full cost will be invoiced
** if job scheduled more than 100 miles (one-way) from Romulus headquartered office then 75% of full cost will be invoiced

(1) Budget

Service Provider	Hourly fee	# of hours	Cost
Lead Inspector (LI)	\$55 / hr.	8 hours	\$ 440
Project Manager (PM)	\$90 / hr.	1 hour	\$ 90
Report Specialist	\$55 / hr.	3 hours	\$ 165
Samples	Collection of environmental samples (dust, soil, etc)		\$ 300
TOTAL BASE COST			\$995
ADDITIONAL FEES			
Per diem / Lodging			\$125 per day
Mileage rates (beyond 150 miles, one-way)			
150 - 249 miles (one-way)			+ \$75
250 – 449 miles (one-way)			+ 400 *
450 – 599 miles (one-way)			+ \$600 *
Beyond 600 miles (one-way)			+ 775 *

A. Schedule / Timeline

Completed Service/Project Components	Estimated Completion Dates
Risk Assessment (RA)	Scheduled within ten (10) calendar days of request (as long as tenant cooperates), submitted report within fifteen (15) calendar days of assessment
Environmental Investigation (EI)	Scheduled within fifteen (15) calendar days of request (as long as tenant cooperates), submitted report within forty-five (45) calendar days of assessment.

EXHIBIT C – KEY PERSONEL

Leo Wall,
Senior Project / Field Manager
38900 W. Huron River Drive
Romulus, MI 48174
Ph: (734) 955-6600 x 206
Cell: (734) 649-9682
Leo.Wall@2etc.com

Tammy Wall
QAQC Manger
Overall Quality Control / Assurance of Project
(800) 864-3236 ext. 216
Tammy.Wall@2etc.com

Alan Hill
Lead Manager
Oversee all lead testing Services
(800) 864-3236 ext 250
Alan.Hill@2etc.com

Gabe Sherrill
Special Project Manager
Overall report oversight
(800) 864-3236
Gabe.Sherrill@2etc.com

Tracy Westcott
President
Oversees all Office Services
(734) 649-9686
Tracy.Westcott@2etc.com

Kateland Phelps
Field Scheduler
Scheduling & Dispatch of all field activities
(800) 864-3236 ext. 210
Kateland.Phelps@2etc.com

EXHIBIT D – RETIREE REHIRE CERTIFICATION



Department of Technology, Management & Budget
 Office of Retirement Services
 www.michigan.gov/ors (800) 381-5111
 P.O. Box 30171
 Lansing MI 48909-7671

Retiree Rehire Certification

For State of Michigan Retirees

Complete this form if you retired from the state of Michigan, receive a pension, and are subsequently rehired by the state. For more information, see the back of this form and go to www.michigan.gov/orsstatedb, and navigate to the *After You Retire, Working After You Retire* section.

Section 1: To be completed by the retiree.

RETIREE NAME (LAST, FIRST, M.I.)	SSN/MEMBER ID	DAYTIME TELEPHONE ()
STREET ADDRESS	CITY, STATE, ZIP CODE	
<ul style="list-style-type: none"> I understand that Defined Benefit retirees of the State Employees Retirement System who become employed by the State of Michigan as an employee, independent contractor, or through a contractual arrangement with another party, agree to forfeit their state pension for the duration of the reemployment. I understand that former qualified participants of the State of Michigan Defined Contribution Plan who transferred from the Defined Benefit plan to the Defined Contribution plan, retired under the 2002 Early Out, and became reemployed as described above, forfeit their retirement allowance payment for the duration of the reemployment. However, the Defined Contribution account(s) and any associated payouts would not be affected. I understand that if I am employed by the state of Michigan for any period of time within the month, I forfeit the entire pension payment for that month. I understand that I am required to repay any previous state of Michigan pension payments received in error while working for the state of Michigan as a retiree. I understand that in order to reinstate my pension payments, I must inform the Office of Retirement Services (ORS) in writing when my reemployment with the state of Michigan ends. I understand that I can only be enrolled in one State group insurance plan, either the retiree or active employee group insurance plan. <p>Please check one box:</p> <p><input type="checkbox"/> I am currently enrolled in the retiree group insurance plan and choose to remain in this plan. I understand that ORS will bill me directly for the retiree cost share of this insurance plan.</p> <p><input type="checkbox"/> I am currently enrolled in the retiree group insurance plan and choose to cancel my enrollment in this plan.</p> <p><input type="checkbox"/> I am not currently enrolled in the retiree group insurance plan.</p> <p><i>In accordance with Public Act 240 of 1943, as amended, I certify that I am retired from the state of Michigan and I understand the conditions specified above.</i></p>		
RETIREE'S SIGNATURE _____	DATE SIGNED _____	

Section 2: To be completed and signed by the employing agency.

I certify that the above individual will be employed with the state of Michigan starting ____/____/20____.		
EMPLOYING AGENCY NAME	EMPLOYING AGENCY CONTACT NAME (PRINT)	TELEPHONE NUMBER
EMPLOYING AGENCY ADDRESS	EMPLOYING AGENCY CONTACT SIGNATURE	DATE SIGNED
If the employing agency listed above is a temporary employment or contracting agency, provide the state of Michigan department/agency contact information below and send a copy of the completed form to the department listed.		
SOM DEPARTMENT NAME	SOM DEPARTMENT CONTACT NAME	TELEPHONE NUMBER

Employing agency return the completed form to:
 Office of Retirement Services, P.O. Box 30171, Lansing, MI 48909-7671

RD792G (Rev. 10/2010)
 Authority: 1943 P.A. 240, as amended

