

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
AGREEMENT FOR PROFESSIONAL SERVICES
WITH
STEWART LENDER SERVICES, INC.**

THIS AGREEMENT is made and entered into as of the **1st day of April, 2016**, 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 **Stewart Lender Services, Inc. ("Contractor")** for the purpose of implementing and continuously having in place a Quality Control Plan for the origination and the servicing of Homeownership Division's mortgage programs. (**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 **December 31, 2018**.
3. **Contract.** Price and Payment.
 - a. The total amount to be paid by the Authority to the Contractor under this Agreement shall not exceed Nine Hundred Fifty Thousand Dollars (**\$950,000**).

- b. Billings for Products and Services will be based on a fixed rate not to exceed \$950,000. 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 **Authority's Contract Administrator, Dace Koenigsknecht**, and must include the following:
 - i. The Authority's contract number as shown above.
 - ii. Specific service performed and development 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.
 - viii. Copies of signed receipts indicating that deliverable assets produced during the billing period, including but not limited to electronic, printed and other produced materials have been delivered to the Authority during the billing period.

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.**
 - e. **EXPENDITURES THAT THE AUTHORITY CONSIDERS TO BE OVERHEAD COSTS (i.e., FIXED AND ORDINARY OPERATING COSTS) 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.** The Contractor shall maintain professional liability insurance sufficient in the amount to provide coverage for any errors or omissions arising out of the performance of this Agreement. If, during the term of this Agreement, changed conditions should, in the judgment of the Authority, render inadequate the Contractor's current insurance limits, the Contractor will furnish to the Authority proof of additional insurance as may be required. All insurance required under this Agreement shall be acquired at the Contractor's expense, under valid and enforceable policies, issued by insurers of recognized responsibility. The Authority reserves the right to reject as unacceptable any insurer.

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 (or longer if required by law or regulation) 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) all 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, 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.

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:

████████████████████ Senior Vice President - Operations
Stewart Lender Services, Inc.
4700 South Syracuse Street, Suite 700, Denver, CO
80237
Phone: ██████████

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

Dace Koenigs knecht
Procurement Specialist
735 E. Michigan Avenue, Lansing, MI 48912
Phone: 517-241-4491
Fax: 517-335-5925
koenigs knechtd1@michigan.gov

The Contractor shall contact only the designated Contract Administrator with any Authority-related questions, work requests, etc., as described in this Agreement, as well as any Authority-related questions, work requests, etc., falling outside the scope of this Agreement.

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) have been previously provided to the Authority as part of the bidding selection and award process. 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. **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") 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 Authority's 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 Limitations. Mich. Const. art. IX, § 18.** The Contractor agrees, subject to the limitations below, 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 ("Damages") 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.

(a) Authority agrees that Contractor is reviewing the Loans at a certain point in time, with certain materials provided, and against certain guidelines and therefore, there can be no assurance that Contractor will uncover all the relevant factors relating to the origination of the Loans, their compliance with applicable loan origination laws and regulations, and the original appraisals relating to the mortgaged properties, or uncover all relevant factors that could affect the future performance of the Loans.

(b) The Parties agree that the Contractor's performance, as set forth in the attached Scope of Work, is separate from the contractual obligations of lenders who originate Homeownership Division mortgages ("Originating Lenders"). The Authority recognizes that the Contractor may be relying on information provided by Originating Lenders in providing the Authority with audit and oversight services. In such instances whereby the Damages arise, result or are caused in part or in whole by one or both Parties' reliance on information provided by Originating Lenders, the Parties may, in their sole discretion, seek remedy(ies) from the Originating Lender as appropriate.

The Parties further agree that in instances whereby the Authority has detrimentally relied on Contractor's performance of services outlined in the Scope of Work attached and incorporated into this Agreement that the Contractor knew or should have known would detrimentally effect the work product and/or Contractor's conclusions delivered to the Authority as required in this Agreement, the Contractor's indemnification extends to the

lesser of i) the amount subject to a recapture event as determined by federal authorities with jurisdiction; or ii) the portion of the fee paid set forth in 3.a. above which is attributable to the Loan.

(c) Furthermore, Authority acknowledges and agrees that Contractor and/or any Contractor employee are NOT (i) “mortgage Loan originator” or a “Loan processor/underwriter” within the meaning of the federal secure and fair enforcement for mortgage licensing act and its state law equivalents, (ii) creditors and do not participate in any credit decision within the meaning of the equal credit opportunity act; and (iii) originating, underwriting, or processing mortgage Loans on behalf of Authority.

(d) Finally, the Authority agrees that the services performed under this Agreement and any SOW hereunder are solely for the Authority. Contractor has no liability or indemnification obligations where the Authority gives Contractor’s reports produced hereunder to any unrelated third party. Contractor will under no circumstances repurchase any Loan.

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. The Authority provides its consent to Contractor's use of its Affiliates (Stewart Title Company, PMH Financial, LLC; Stewart Valuation Services, LLC, Home Retention Services, Inc.) in the performance of the Services provided to the Authority under this Agreement i) for the sole purpose of facilitating payroll processing or licensing requirements and ii) so long as the Affiliate remains wholly owned and/or controlled by Contractor at all times that Affiliate Services are performed. The Contractor shall use best efforts to minimize its use of Affiliates. In the event of a conflict between this subsection and Section 12, Section 12 shall control.

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 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 material as previously described within 30 days of terminating. However, the Contractor will be entitled to retain copies. If deemed necessary, the parties will enter into a transition plan. The transition plan may include steps to safeguard continued loan compliance with insurer or guarantor requirements, the transfer of unfinished material, and other matters as required to mitigate damages or expedite the release of the Contractor. 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: _____

By: _____

**Kevin Elsenheimer, Executive Director or
Brian Mills, Chief Operating Officer**

STEWART LENDER SERVICES, INC.

Date: _____

By: _____

**James C. Pyle III
Group Executive Vice President - Compliance**

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
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WITH
STEWART LENDER SERVICES, INC.**

EXHIBIT A

SCOPE OF WORK

I. Overview

- A.** The Homeownership Division of the Michigan State Housing Development Authority ("Authority" or "MSHDA") is contracting with an organization authorized to do business in Michigan to implement and continuously have in place a Quality Control Plan for the origination and the servicing of insured or uninsured Federal Housing Administration ("FHA"), Veterans Affairs ("VA"), Conventional, and United States Department of Agriculture/Rural Development ("USDA/RD") mortgages as a condition of receiving and maintaining all loans and programs as needed by the Authority's Homeownership Division.
- B.** The Authority is contracting for services to support Single Family loan products which assist low to moderate income residents in successfully purchasing a home by offering affordable fixed-rate mortgage loans.
- C.** The Authority is contracting with a firm to:
1. Assure compliance with HUD guidelines and the Authority's loan origination.
 2. Assure compliance with all servicing regulations and requirements including HUD, VA, USDA/RD, MSHDA regulations and other servicing regulations including but not limited to, SCRA, RESPA, CFPB and HPA.
 3. Protect the mortgagee from unacceptable risk.

4. Guard against errors, omissions and fraud.
5. Assure swift and appropriate corrective action.

D. The Authority is contracting for quality control services to routinely review the origination, closing, and servicing functions.

II. **Objectives, Tasks & Activities, and Deadlines**

A. **Objectives.** To successfully perform the services described in Section I above, the contractor must satisfy the following objectives:

1. Assure all loans originated and purchased, limited to the Authority, conform to Authority policies.
2. Assure that the loans are of quality acceptable to institutional and secondary market investors. Assure that all loans originated and purchased comply with all applicable insurer or guarantor requirements, including, without limitation, all requirements of FHA, VA and Conventional and USDA/RD, as required by the Department of Housing and Urban Development in the Mortgagee Approval Handbook, Directive 4060.1, Chapter 7, and Directive 4000.1 effective 03/14/2016, for the Authority's Single Family Mortgage loans and programs currently being serviced by U. S. Bank Home Mortgage.
3. Revise the Authority's (i.e., Homeownership Division) operating procedures in a timely manner.
4. Advise of prompt and effective corrective measure to be taken by the Authority when deficiencies in the loan origination or servicing process are identified.
5. Assure that all loans, limited to the Authority, originated and purchased comply with all applicable Federal regulations including, without limitation, the Real Estate Settlement Procedures Act, as amended and modified from time to time, and the Truth in Lending Act, as amended and modified from time to time.
6. Quality Control functions must be performed separately from the contractor's loan origination or servicing functions, if applicable.
7. Contractor must ensure that all Quality Control reviews are performed on a regular and timely basis.

8. Assure that the servicing reviews are performed on a monthly basis and a final report is issued.
9. The final monthly servicing report must be submitted to the manager of Audit, Single Family and Multi-Family Mortgage Servicing within 90 calendar days of the respective month end.

B. Activities/Responsibilities Necessary to Complete Scope of Work. To achieve the objectives that are identical in both the origination and servicing function, the contractor shall perform the following activities required to achieve the objectives:

1. The contractor will develop and maintain a fully functioning Quality Control Program in accordance with HUD requirements for all Single Family loan products.
2. The contractor must compile all reports separately for the origination and servicing functions.
3. The contractor must put in writing their proposed frequency for reviews. Origination reviews must be conducted monthly. All origination reviews are required to be completed within 90 days of loan closing.
4. The contractor must conduct monthly/calendar quarterly reviews of the servicing areas in adherence with HUD/FHA regulations. Monthly FHA servicing reviews must be submitted within 60 calendar days of the respective month end and quarterly Conventional, VA, and USDA reviews to be completed within 90 days of the respective quarter end.
5. The contractor must review a minimum of 10% of the Authority's purchased loans. This review must evaluate the accuracy and adequacy of the information and documentation used in reaching decisions in the origination process. This selection must occur within 30 days of month end and the files must be reviewed within 30 days of receipt from the lender. The contractor must also provide for the review and confirmation of information on all loans selected for review.
6. The contractor must report the origination review findings within 30 days of the origination file review.
7. The contractor must choose closed loans for review in accordance with Authority criteria, incorporating any fraud targets or market problems.

8. The contractor must review and check for accuracy and completeness of all closing documents, and all origination documents, based on Authority and HUD/FHA criteria. (Authority criteria available upon request). HUD criteria currently found at:
 - http://portal.hud.gov/hudportal/HUD?src=/program_offices/administratio n/hudclips/handbooks/hsg/4155.1
 - <http://portal.hud.gov/hudportal/documents/huddoc?id=47002c6HSGH.p df>
9. The contractor must review all new loans that have gone into early payment default within the first six months of loan payments. MSHDA will provide the monthly list of defaulted loans to contractor.
10. The contractor must review direct endorsement loans for compliance with HUD underwriting requirements.
11. The contractor must provide detailed written authoritative support for any finding or recommendation that is questioned by MSHDA and/or the subservicer (i.e., U.S. Bank Home Mortgage).

C. Products or Milestones to be Met. Products or Milestones include:

1. MSHDA will provide a list of previous months' loans purchased to contractor within one week after the close of each month. Contractor will provide random 10% sample selection within five (5) business days. Loan files will be provided to contractor one week after the loan selection has been completed.
2. Contact MSHDA's subservicer, U.S. Bank Home Mortgage, to obtain the necessary records, accounts, information and files to conduct the servicing quality control review. MSHDA does not maintain the records, accounts, information and files that are needed to perform the monthly servicing quality control review.
3. Maintain link to FHA Quality Control requirements and review link monthly for any updates or changes.
4. The contractor must submit a monthly servicing billing that includes a detailed invoice that reports by review category, the monthly/quarterly function, the sample size, the total cost and audit time. The detailed invoice must also include the total

cost and audit time for file selection, worksheet/work paper preparation and report preparation.

5. The contractor will copy the Authority on all correspondence, reports and documents sent to or received from U.S. Bank Home Mortgage and related to this Agreement, unless otherwise directed by the Authority in writing.

D. Deadlines for Completing Objectives. The contractor shall perform the tasks/activities:

1. Submit the final monthly FHA servicing reviews to the Authority within 60 calendar days of the respective month end.
2. Submit the quarterly servicing reviews to the Authority within 90 days of the respective calendar quarter end.
3. The contractor must select the monthly origination file reviews within 30 days of month end and the files must be reviewed within 30 days of file receipt from the lender.
4. Submit the monthly origination audit findings within 30 days of the file review to the Director of Homeownership or their designee. All origination reviews are required to be completed within 90 days of loan closing.

III. Standards for Performance:

A. The contractor shall perform the tasks/activities and complete the objectives in accordance with the following standards:

1. Department of Housing and Urban Development in the Mortgagee Approval Handbook, Directive 4060.1, Chapter 7:
<http://portal.hud.gov/hudportal/documents/huddoc?id=40601c7HSGH.pdf>
and Directive 4000.1 effective 03/14/2016.
2. All federal and state mortgage origination and servicing regulatory requirements.