

LAREDO HOUSING AUTHORITY

Legal Services Contract For General Counsel

This Legal Services Contract ("Contract") is entered into as of May 24, 2016 ("Effective Date") by and between the Housing Authority of the City of Laredo, a public body, corporate and politic (hereinafter "Laredo Housing Authority" or "LHA") and Escamilla & Poneck, LLP, a Texas limited liability partnership ("Attorney").

WITNESSETH:

WHEREAS, LHA is a public body corporate and politic organized and validly existing and in good standing under the laws of the State of Texas and currently engaged in such business as defined in the Housing Authority Law in the Local Government Code of the State of Texas, including the services of providing decent, safe and sanitary housing to the residents of its facilities, low-income families, the elderly, the handicapped and the disabled; and

WHEREAS, LHA issued a Request for Qualifications for **Outside Legal Counsel Services** RFQ No. LHA16-0310-1 (hereinafter referred to as the "RFQ") to procure the counsel for the Housing Legal Services; and

WHEREAS, Escamilla & Poneck submitted a proposal in response to the RFQ; and

WHEREAS, LHA selected Escamilla & Poneck to serve as LHA's lead general counsel in connection with the Outside Legal Counsel Services;

NOW THEREFORE, LHA and the Attorney agree as follows:

1. Scope of Services

Attorney shall provide the services of lead general counsel for all work as described in the "Scope of Work", section 2.0, pages 6-9 of the RFQ. The RFQ is attached hereto as **Exhibit A** and is incorporated herein in its entirety by reference. Attorney shall perform legal services related to LHA corporate governance, public information requests, fraud issue review, procurement, personnel, HUD/TDHCA and other government regulatory compliance, and other matters as assigned by the LHA. Such legal services to be provided by Attorney shall also include coordination of work assigned to (1) Hawkins, Delafield & Wood LLP as special counsel regarding HUD and related housing development issues, and (2) De Anda Law Firm as local counsel as assigned by LHA.

2. **Time of Performance**

The term of this Contract shall begin on the Effective Date for a period of one (1) year, renewable each year for a maximum of five (5) years, unless earlier terminated as provided herein.

3. **Compensation Billing Rates, and Method of Payment**

A. **Compensation.** LHA shall compensate Attorney according to the hourly rate schedule attached as **Exhibit B**. Costs will be billed in addition to professional fees. LHA and the Attorney shall execute any amendment, as may become necessary, to this Contract by letter agreement reflecting the negotiated changes, if any.

1) Billings by the Attorney are to be directed to Accounts Payable, Finance Department, Laredo Housing Authority, 2000 San Francisco Avenue, Laredo, Texas 78040.

2) Invoices shall be accompanied with the following information, which may be supplied by computer printout:

- i. A brief summary, listing names of attorneys and paralegals who provided the legal services, total hours for each in increments of tenths (.1) of an hour of time, and their hourly rates;
- ii. Number of hours worked per attorney or paralegal, on a daily basis;
- iii. A brief description of actual work done by each person (detailed narratives are not necessary), on a daily basis; and
- iv. Itemization of disbursements and costs.

3) Payments made by Attorney to others, including other firms and/or witnesses, for services in connection with the matter shall be included in the statement and supporting invoices shall be attached to the billing.

B. **Method of Payment.** Attorney will submit monthly billing invoices to LHA. The invoices shall include the billing amount, total hours invoiced, hourly billing rate, description of services rendered, and supporting documentation. LHA staff will review these invoices for payment.

C. **Taxes.** No payroll or employment taxes of any kind will be withheld or paid by LHA on behalf of Attorney. LHA will not treat Attorney as an employee with respect to the Contract services for any purpose, including federal and state tax purposes. Attorney understands and agrees that it is Attorney's

responsibility to pay all taxes required by law, including self-employment social security tax. LHA will issue an IRS 1099 Form, or other appropriate tax reporting document, to Attorney for the Contract services.

- D. Benefits. Attorney will not be eligible for, and will not participate in, any health, pension, or other benefit of LHA that exists solely for the benefit of LHA employees during the Contract term.

4. **Records for Audit Purposes.**

Attorney shall maintain all records concerning Services performed and for which Attorney requires compensation under this Contract for three (3) years from the expiration date of the Contract unless a longer period is required under Title 24, Code of Federal Regulations, Section 85.42. Attorney shall provide LHA and, subject to LHA approval, HUD, the Comptroller General of the United States, the General Accounting Office, or any of their authorized representatives, all records pertaining to the services provided hereunder. This right shall continue as long as the records are required to be maintained.

5. **No Personal Liability**

No member, official or employee of LHA shall be liable personally to Attorney or any successor in interest in the event of any default or breach by LHA or for any amount which may become due to Attorney or any successor or on any obligation under the terms of this Contract.

6. **Assignment of Contract**

Attorney shall not assign this Contract, or any part thereof, without the prior, express, written consent of LHA.

7. **HUD Requirements**

Attorney agrees to comply with all relevant HUD requirements, including General Conditions for Non-Construction Contracts, form HUD-5370-C, Attachment "C" to the RFQ.

8. **Indemnification**

Attorney shall defend, hold harmless and indemnify LHA and its respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of this Contract and any of Attorney's operation or activities related thereto, excluding the alleged or actual negligence, gross negligence, and/or willful

misconduct of the person or entity seeking to be defended, indemnified or held harmless.

9. Independent Contractor

Attorney hereby declares that it is engaged in an independent business and agrees to perform its services as an independent contractor and not as the agent or employee of LHA. Attorney has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Attorney agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state and local payroll tax and withholding requirements, workers' compensation requirements and all regulations governing such matters. Attorney agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of the Contract.

10. Insurance

A. Attorney agrees to procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work under this Contract by the Attorney, its agents, representatives, employees or subcontractors.

B. Minimum Scope of Insurance. Coverage shall be at least as required by the RFQ.

11. Disclaimer of Guaranty

Although Attorney may offer an opinion about possible results regarding any specific matter handled by Attorney, Attorney cannot guarantee any particular result. LHA acknowledges that Attorney makes no promises about the outcome of any specific matter; and any opinion offered by Attorney in the future will not constitute a guaranty.

12. Conflicts of Interest

LHA understands that the Rules of Professional Conduct for the State Bar of Texas requires the client's informed written consent before an attorney may begin or continue to represent the client when the attorney has or had a relationship with another party interested in the subject matter of the attorney's proposed representation of the client. At this time, Attorney is not aware of any relationship with any other party interested in the subject matter of Attorney's services for LHA under this Contract. As long as Attorney's services for LHA continue under this

Contract, Attorney will not agree to provide legal services for any such party without LHA's prior written and informed consent.

13. Nondiscrimination

Attorney agrees that there shall be no discrimination against any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of this Contract. Attorney will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations to clients or the general public.

14. Termination

Either party may terminate this Contract at any time without cause upon thirty (30) days' written Notice of Termination to the other party; provided, however, that in the event of such termination, LHA shall compensate the Attorney for work completed to the satisfaction of LHA as of the date of such notice or the date of termination specified in and directed by such notice.

15. Non-Appropriations

Attorney understands that LHA is a governmental entity and may not be funded for any period during the term of this Contract for the requested services. LHA agrees to provide Attorney written notice within thirty (30) days, if at all practicable, after learning that such funding will not become available to LHA. For this Contract, LHA hereby certifies that adequate funding is available to complete requested services for LHA's current fiscal year.

16. Compliance with Federal Regulations

Attorney agrees to comply with federal laws and regulations, as applicable, including, but not necessarily limited to, the following:

- The requirements of Title VII of the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964 relating to prohibitions against the discrimination in housing and the benefits of federally funded programs because of race, color, religion, sex, or national origin.
- The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 and prohibited discrimination against

handicapped individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

- The requirements of Executive Order 11246 relating to equal employment opportunity in connection with federally funded programs.
- The requirements of Section 3 of the Housing and Urban Development Act of 1968 relating to the training and employment of individuals and contracting for business opportunities in metropolitan areas in which federally funded programs are being operated.
- The requirements of Executive Orders 11625, 12432, and 12138 to implement Minority Business Enterprises and Women's Business Enterprise participation goals in programs of federal agencies.
- The applicable provisions of Section 1 of the General Conditions for Non-Construction Contracts contained in form HUD-5370-C (10/2006). To the extent that any provision of this Contract conflicts with any required provision in HUD-5370-C for this Contract, the conflicting provision in HUD-5370-C shall apply.

17. Miscellaneous Provisions

- A. Notices. All notices, demands, consents, or approvals required under this Contract shall be in writing and shall be deemed given when delivered personally or by facsimile transmission or three (3) business days after being deposited in the U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

If to LHA: Executive Director
Laredo Housing Authority
2000 San Francisco Avenue
Laredo, TX 78040

If to Attorney: Douglas A. Poneck
Escamilla & Poneck, LLP
700 North St. Mary's Street, Suite 850
San Antonio, TX 78205

or to such other addresses as the parties may designate by notice as set forth above.

- B. Successors and Assigns. This Contract shall be binding upon and inure to the benefit of the successors and assigns of LHA and Attorney. When the term "Attorney" or "LHA" is used in this Contract, it shall mean and include their respective successors and assigns; provided, however, that LHA shall have no obligation under this Contract to, nor shall any benefit of this Contract accrue

to, any unapproved successor or assign of Attorney where LHA approval of a successor assign is required by this Contract.

- C. Modification, Waiver and Amendment. Any modification, waiver or amendment of any of the provisions of this Contract shall be in writing and signed by both LHA and Attorney.
- D. Entire Contract. This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Attorney and LHA affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements, agreements and understandings between Attorney and LHA with respect to the subject matter hereof.
- E. Severability. If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.
- F. Governing Law. This Contract shall be governed by and interpreted and construed in accordance with the laws of the State of Texas, and shall be subject to the exclusive jurisdiction of the state courts therein. Venue for any court action brought by either party under this Contract shall remain exclusively in Webb County, Texas. It is the responsibility of Attorney to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements.
- G. Headings. Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.
- H. Attorney's Fees. In any action or proceeding arising out of the interpretation of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.
- I. Alternative Dispute Resolution. In the event of a dispute between the parties regarding the interpretation of this Contract, the parties may agree to mediation or another form of alternative dispute resolution.
- J. Authority. Each of the undersigned represents and warrants that he or she has full power and authority to enter into this Contract on behalf of his or her respective party and to bind the party in accordance with its terms.

IN WITNESS WHEREOF, LHA and Attorney have executed this Contract as of the Effective Date first above written.

LAREDO HOUSING AUTHORITY

By: Melissa Ortiz

ESCAMILLA & PONECK, LLP

By: Douglas A Poneck

EXHIBIT A
Scope of Services

The Scope of Services shall be the "Scope of Work" outlined in the Request for Qualifications (RFQ) Document, No. LHA 16-0310-1, for Outside Legal Counsel Services but only to the extent specifically described in Section 1 of this Legal Services Contract.

EXHIBIT B
Attorney's Hourly Rate Schedule

Partner	\$250.00/Hour
Senior Associates	\$225.00 - \$250.00/Hour
Associates	\$175.00 - \$225.00/Hour
Paralegal	\$110.00/Hour