

**Contract between Housing Authority of the City of Laredo, TX  
and Hickey Peña Architects (No. LHA2016\_1218\_02-2-HP1)**

**INTRODUCTION**

This contract by and between the Housing Authority of the City of Laredo, TX (hereinafter "LHA"), and Hickey Peña Architects (hereinafter "the Consultant") is hereby entered into this 1<sup>st</sup> day of August, 2017.

Services pursuant to this contract shall begin on the 2<sup>nd</sup> day of August, 2017, and shall end on the 1<sup>st</sup> day of August, 2018, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. Unless otherwise detailed herein, all references to "days" shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term "herein" is referred to, such refers to this contract form, the appendices and all listed attachments.

**1.0 Definitions:**

- 1.1 **Laredo Housing Authority (LHA):** Any reference herein or within any Attachment or Appendix to the "Housing Authority" shall be interpreted to mean the same as the LHA.
- 1.2 **Contracting Officer (CO):** The LHA Contracting Officer, typically the LHA Executive Director, but may be another person delegated such authority by the ED.
- 1.3 **Executive Director (ED):** The LHA Executive Director.
- 1.4 **Request For Qualifications/Proposals (RFQ/P):** A competitive solicitation process conducted by the LHA wherein award was completed to the top-rated responsive and responsible proposer.

**2.0 Services and Payment:**

- 2.1 **Scope of Services:** The services provided pursuant to this contract generally consist of those services for the LHA as described in any Attachment and/or within the Appendices. Said services shall be provided on the dates and times determined by the LHA at the designated LHA community and facilities. In addition, the LHA shall retain the right to implement and/or enforce any item issued as a part of RFQ No. LHA 2016\_1218\_02 Architectural/Engineering Design Services. *Scope of Work related to this contract is referenced as Attachment A and supplements this contract.*
- 2.2 **Provisions of any and all Work Authorized (Task Orders):** *The Consultant shall not begin any additional work (other than that already detailed herein) without the receipt of a fully completed Work Authorization Form (WAF) and signed by the authorized LHA representative.* This shall be completed as follows:
- 2.3 **Cost/Value of Services:**
  - 2.3.1 **Contract Value:** The current total Not-To-Exceed (NTE) value of this contract is:  
\$ TBD for each Task Order as determined and agreed to by both parties.

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The Consultant exceeds the NTE amount at his/her own risk. The Consultant is under no obligation to provide additional services that would cause the Consultant's fees to exceed the NTE amount without prior revision of this amount by written change order.

**2.4 Renewal Options:** This contract is initially executed for the period of 1 year with the option, at the LHA's discretion, of 4 additional one-year option periods, for a maximum total of 5 years.

**2.5 Time Performance:** The Consultant will complete each assigned task as detailed within the executed Work Authorization Form (WAF) signed by the authorized LHA representative.

**2.6 Billing Method:**

**2.6.1** To receive payment for services rendered pursuant to this contract the Consultant shall submit a fully completed invoice for work previously performed to:

Housing Authority of the City of Laredo, TX  
Attn: Melissa Ortiz  
Acting/Interim Executive Director  
2000 San Francisco Ave.  
Laredo, TX 78040

**2.6.2** At a minimum, the invoice shall detail the following information:

**2.6.2.1** Unique invoice number;

**2.6.2.2** Consultant's name, address and telephone number;

**2.6.2.3** Date of invoice and/or billing period;

**2.6.2.4** Applicable Contract No. ;

**2.6.2.5** Applicable Purchase Order No.;

**2.6.2.6** Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report);

**2.6.2.7** Completed Work Authorization Form, signed by the authorized LHA representative; and

**2.6.2.8** Total dollar amount being billed.

**2.6.3** The LHA will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Consultant complies with the applicable provisions of this contract.

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- 3.0 LHA's Obligations:** Pursuant to this contract, the LHA agrees to provide the specific services detailed herein and also shall be responsible for the following:
- 3.1** The LHA agrees to not provide to the Consultant any Work Order, Task Order or WAF assigning work to the Consultant without the prior written approval of the ED.
- 4.0 Consultant's Obligations:** Pursuant to this contract, the Consultant agrees to provide the specific services detailed herein and also shall be responsible for the following:
- 4.1 Supervision and Oversight:** The Consultant shall be solely responsible for providing supervision and oversight to all of the Consultant's personnel that are assigned to the LHA properties pursuant to this contract.
- 4.2 Qualified Personnel:** The Consultant warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Consultant within its proposal or as provided by the Consultant during the Consultant's normal conduct of business.
- 4.3 Compliance with Federal and State Laws:** All work performed by the Consultant, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.
- 4.4 Insurance Requirements:**
- 4.4.1** The complete indemnity requirements are detailed within Section 11.19 herein.
- 4.4.2** In this regard, the Consultant shall maintain the following insurance coverage during the effective term(s) of this contract:
- 4.4.2.1** Policy of General Liability Insurance, \$1,000,000 per occurrence, \$1,000,000 aggregate together with damage to premises and fire damage of \$50,000 and medical expenses for any one person of \$5,000 with a deductible not greater than \$1,000. The LHA shall be named upon the certificate issued as an "additional insured," together with providing a copy of the corresponding endorsement evidencing the same.
- 4.4.2.2** Policy of Professional Liability Insurance or Errors & Omissions coverage, minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000 with a deductible of not greater than \$1,000;
- 4.4.2.3** Automobile Liability coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this contract, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000 with a deductible not greater than \$1,000.

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- 4.4.2.4 Worker's compensation coverage evidencing carrier and coverage amount.
- 4.4.2.5 The Consultant shall provide to the LHA with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the LHA as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof.
- 4.4.2.6 Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the LHA:

Housing Authority of the City of Laredo, TX  
Attn: Melissa Ortiz  
Acting/Interim Executive Director  
2000 San Francisco Ave.  
Laredo, TX 78040

- 4.5 **Licensing:** The Consultant shall also provide to the LHA a copy of any required licenses. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.
- 4.6 **Financial Viability and Regulatory Compliance:**
  - 4.6.1 The Consultant warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Consultant further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.
  - 4.6.2 The Consultant agrees to promptly disclose to the LHA any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Consultant to disclose such issue to the LHA in writing within 5 days of such notification received will constitute a material breach of this contract.
  - 4.6.3 The Consultant further agrees to promptly disclose to the LHA any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Consultant may undergo during the term(s) of this contract. The failure of the Consultant to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.
  - 4.6.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to LHA within the time periods required herein.



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- 4.7 Confidentiality.** The Consultant, in connection with performing his/her services hereunder, will have access to or may be provided certain confidential information concerning the Agency and agrees that any information concerning the finances, accounting practices, business, client, client lists, property information, client data, records of the Agency or any other information which a reasonable person could conclude that should remain confidential (collectively Confidential Information), will not be disclosed to any party and without limitation, any employee of the Agency or any client or potential client of the Agency at any time, except for the Consultant's legal counsel, accounts, or financial advisors, who will also hold such Confidential Information in confidence. The Consultant acknowledges that the information is being provided with the sole understanding that all Confidential Information will remain confidential and will be held in the strictest confidence. The Consultant further acknowledges that any disclosure of the Confidential Information, whether intentional or inadvertent, may harm the Agency. The Agency will have the right to enforce this Contract by specific performance, as well as hold the Consultant liable for any damages caused by any disclosure of any Confidential Information, whether intentional or inadvertent. The Consultant agrees that he has received valuable consideration for the entering into of this Contract and agrees to be bound all of its terms and conditions. This Contract will be binding on the Consultant and any attorney, accountant, financial advisor who also may be provided Confidential Information.
- 5.0 Modification:** This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.
- 6.0 Severability:** The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.
- 7.0 Applicable Laws:**
- 7.1 Compliance with Federal and State Laws:** All work performed by the Consultant, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.
- 7.2 Jurisdiction of Law:** The laws of the State of Texas shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Webb County, Texas is the appropriate forum for any action relating to this contract. Should any party hereto retain counsel for the purpose of initiating litigation or arbitration to enforce, prevent the breach of any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such prevailing party. This contract may be signed in counterparts.

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**8.0 Notices, Invoices and Reports:**

- 8.1** All notices, reports and/or invoices submitted to the LHA by the Consultant pursuant to this contract shall be in writing and delivered to the attention of the following person representing the LHA:

Housing Authority of the City of Laredo, TX  
Attn: Melissa Ortiz  
Acting/Interim Executive Director  
2000 San Francisco Ave.  
Laredo, TX 78040

or if appropriate, emailed to: [melissa@larha.org](mailto:melissa@larha.org)

- 8.2** All notices submitted to the Consultant pursuant to this contract shall be in writing and mailed to the attention of:

Hickey Peña Architects  
Attn: Mario Peña  
600 San Bernardo Ave.  
Laredo, TX 78040

**9.0 Disputed Billings (Charges):**

- 9.1 Procedures:** In addition to the procedures detailed within Clause No. 7 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the LHA disputes any portion of its billing(s), the LHA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

**9.1.1** The LHA's representative shall, within 10 days after the LHA's receipt of such billing, formally notify the Consultant's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

**9.1.2** If such dispute cannot be resolved by the Consultant's response, within 10 days after such notification is given, the CO and the Consultant's representative shall meet to discuss the matter and attempt to arrive at a resolution.

**9.1.3** If the CO and the Consultant's representative are unable to resolve the dispute through such discussion within 10 days, the LHA shall, within 10 days thereafter, either:

**9.1.3.1** Pay the disputed charges and reserve the right to submit the matter to the appropriate district court in the State of Texas;

**9.1.3.2** Not pay the disputed charge and submit the matter to the appropriate district court in the State of Texas;



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9.1.3.3 Not pay the disputed charge and allow the Consultant to submit the matter to the appropriate district court in the State of Texas.

9.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the LHA, the LHA shall pay the LHA's receipt of the decision. If the decision is in favor of the LHA, the Consultant will either:

9.1.4.1 Clear the amount which is ordered from the LHA account; or

9.1.4.2 Repay to the LHA the amount ordered;

Either option shall be completed within 10 days after the Consultant's receipt of the arbitrator's decision.

10.0 **24 CFR 85.36(i), *Procurement*:** Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the LHA and the Consultant each agree to comply with the following provisions:

10.1 **Remedies for Consultant Breach:** Pertaining to contract-related issues, it is the responsibility of both the LHA and the Consultant to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the LHA or the Consultant is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the LHA has the right to issue unilateral addendums to this contract, but the Consultant does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the LHA shall retain the right to, if conditions warrant, require the Consultant to respond in a shorter period of time). Further, the LHA shall, at a minimum, employ the following steps in dealing with the Consultant as to any performance issues:

10.1.1 If the Consultant is in material breach of the contract, the LHA may promptly invoke the termination clause detailed within Section No. 3 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the Consultant in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

10.1.2 Prior to termination, the LHA may choose to warn the Consultant, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the Consultant on probation, thereby giving the Consultant a certain period of time to correct the deficiencies or potentially suffer termination. The LHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the Consultant does not agree with such action, the Consultant shall have ten 10 days to dispute or protest, in writing, such

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action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the LHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the LHA's alleged incorrect action(s).

- 10.1.3** After termination, if the Consultant does not agree with the LHA's justification for the termination, the Consultant shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the LHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the LHA's alleged incorrect action(s).
- 10.1.4** The response to any protest received shall be conducted in accordance with Section No. 4.0 of the *Instructions to Proposers and Consultants* document.
- 10.2 Termination For Cause and Convenience:** As detailed within Clause No. 3 of Attachment G-1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(Within or without Maintenance Work)*, attached hereto.
- 10.3 Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 10.4 Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 10.5 Davis-Bacon-Act (not applicable):** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.6 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (not applicable):** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.7 Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 10.8 Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.



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- 10.9 Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the LHA has unlimited rights to any data, including computer software, developed by the Consultant in the performance of the contract specifically:
- 10.9.1** Except as provided elsewhere in this clause, the LHA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
- 10.9.2** The Consultant shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Consultant in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 10.9.3** For data first produced in the performance of this contract, the Consultant may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The Consultant grants the LHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the LHA.
- 10.9.4** The Consultant shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the Consultant identifies such data and grants the LHA a license of the same scope as identified in the preceding paragraph.
- 10.9.5** The LHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the LHA may either return the data to the Consultant, or cancel or ignore the markings.
- 10.9.6** The Consultant is responsible for obtaining from its sub-Consultants all data and rights necessary to fulfill the Consultant's obligations under this contract.

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- 10.9.7** Notwithstanding any provisions to the contrary contained in the Consultant's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the Consultant agrees the LHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 10.9.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the LHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any LHA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 10.10 Access to Records:** Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 10.11 Record Retention:** Both parties hereby guarantee retention of all required records for three records after grantees or subgrantees make final payments and all other pending matters are closed.
- 10.12 Clean Air Act:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- 10.13 Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).



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**11.0 Additional Considerations:**

**11.1 Right of Joinder Pursuant to NRS 332.195:**

11.1.1 Any political subdivision within the State of Texas may be granted the privilege of joining the awarded contract, only at the option of the Consultant. If the Consultant so grants such a privilege, the terms and conditions of the RFQ/P documents, including the ensuing contract, may be passed on to the joining political subdivision by the Consultant.

11.1.2 The Consultant shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the Consultant allows another political subdivision to join the LHA contract, it is expressly understood that the LHA shall in no way be liable for the joining political subdivision obligations to the Consultant in any manner whatsoever.

**11.2 Non-Escalation:** Unless otherwise specified within the RFQ/P documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.

**11.3 Funding Restrictions and Order Quantities:** The LHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the LHA, if:

12.3.1 funding is not available;

12.3.2 legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

12.3.3 the LHA's requirements in good faith change after award of the contract.

**11.4** Unless otherwise stated in the RFQ/P documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFQ/P, whether or not they are known to either the LHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the Consultant and any costs that were submitted by the Consultant in response to the RFQ/P shall reflect all costs required by the Consultant to procure and provide such necessary permits.

**11.5 Taxes:** All persons doing business with the LHA are hereby made aware that the LHA is exempt from paying Texas State Sales and Use Taxes and any applicable Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.

**11.6 Government Standards:** It is the responsibility of the proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NIOSH) and environmental control (EPA and County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Consultant shall be responsible for all costs incurred for compliance with any such

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possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Consultant for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.

**11.7 Freight on Bill and Delivery:** All costs submitted by the proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFQ/P documents or within the contract.

**11.7.1** The Consultant agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the Consultant. Upon default, the Consultant agrees that the LHA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.

**11.8 Backorders:**

**11.8.1** The CO must be notified in writing by the Consultant within 10 days of any and all backordered materials and/or any incomplete services; and the estimated delivery date.

**11.8.2** Unless otherwise stipulated in the contract, any order that will take more than a maximum of 10 days past the original agreed upon delivery date, may at the option of the LHA, be canceled and ordered from another source, if, in the opinion of the CO, it is in the best interests of the LHA to do so.

**11.9 Work on LHA Property:** If the Consultant's work under the contract involves operations by the Consultant on LHA premises, the Consultant shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the LHA's negligence, shall indemnify the LHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Consultant, its agents, employees, or sub-Consultants.

**11.10 Official, Agent and Employees of the LHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the LHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

**11.11 Sub-Consultants:** Unless otherwise stated within the RFQ/P documents, the Consultant may not use any sub-Consultants to accomplish any portion of the services described within the RFQ/P documents or the contract without the prior written permission of the CO.

**11.12 Salaries and Expenses Relating to the Consultants Employees:** Unless otherwise stated within the RFQ/P documents, the Consultant shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and



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any similar taxes relating to its employees used in the performance of the contract. The Consultant further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.

- 11.13 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including reasonable attorneys' fees. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 11.14 Independent Consultant:** Unless otherwise stated within the RFQ/P documents or the contract, the Consultant is an independent Consultant. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 11.15 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 11.16 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 11.17 Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 11.18 Limitation of Liability:** In no event shall the LHA be liable to the Consultant for any indirect, incidental, consequential or exemplary damages.
- 11.19 Indemnification:**
- 11.19.1** The Consultant shall indemnify, defend, and hold the LHA (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Consultant to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with any applicable Workers Compensation statute in the State of Texas or any other law, ordinance, or decree; or (4) ensure that the any sub-Consultants abide by the terms of this provision and this contract; provided, however, that Consultant will not be required to indemnify the LHA against any loss or damage which was specifically caused by the LHA providing inaccurate information to the Consultant,

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failing to provide necessary and requested information to the Consultant, or refusal to abide by any recommendation of the Consultant.

- 11.19.2** In this connection, it is expressly agreed that the Consultant shall, at its own expense, defend the LHA, its officers, employees, and agents, against any and all design and/or architectural related construction claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act, the consequences of which the Consultant has indemnified the LHA. If the Consultant shall fail to do so, the LHA shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Consultant including attorney's fees and court costs.
- 11.19.3** Any money due to the Consultant under and by virtue of this contract, which the LHA believes must be withheld from the Consultant to protect the LHA, may be retained by the LHA so long as it is reasonably necessary to ensure the LHA's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the LHA provided, however, neither the Corporation's payments shall not be withheld, and its surety shall be released, if the Consultant is able to demonstrate that it has adequate liability and property damage insurance to protect the LHA from any potential claims.
- 11.19.4** The Consultant shall provide that any contractual arrangement with a sub-Consultant shall be in conformance with the terms of this Contract including the terms of this indemnity provision.

**12.20 Lobbying Certification:** By execution of this contract with the LHA the Consultant thereby certifies, to the best of his or her knowledge and belief, that:

- 12.20.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 12.20.2** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.
- 12.20.3** The Consultant shall require that the language of this certification be included in the award documents for all subawards at all tiers (including



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subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

**12.21 Additional Federally Required Orders/Directives:** Both parties agree that they will comply with the following laws and directives, where applicable:

- 12.21.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 12.21.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The LHA hereby extends this requirement to the Consultant and its private Consultants. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).
- 12.21.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the LHA requires that the Consultant administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 12.21.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 12.21.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 12.21.6 HUD Information Bulletin 909-23 which is the following:
  - 12.21.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;
  - 12.21.6.2 Clean Air and Water Certification; and,
  - 12.21.6.3 Energy Policy and Conversation Act.
- 12.21.7 That the funds that are provided by the LHA and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Consultant.

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- 12.21.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.
- 12.21.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either part.
- 13.0 **Section 3 Clause:** As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this contract.
- 13.1 The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- 13.2 The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- 13.3 The Consultant agrees to send to each labor organization or representative of workers with which the Consultant has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Consultant's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 13.4 The Consultant agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the sub-consultant is in violation of the regulations in 24 CFR part 135. The Consultant will not subcontract with any sub-consultant where the Consultant has notice or knowledge that the sub-consultant has been found in violation of the regulations in 24 CFR part 135.



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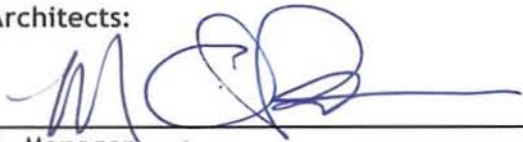
- 13.5 The Consultant will certify that any vacant employment positions, including training positions, that are filled (1) after the Consultant is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Consultant's obligations under 24 CFR part 135.
- 13.6 Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- 13.7 With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- 14.0 Appendices:
- 14.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:
- 14.1.1 **Appendix No. 1:** form HUD-5370-C (10/2006), *General Condition for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, Attachment G-1 of the RFQ/P document;
- 14.1.2 **Appendix No. 2:** Specific documentation pertaining to Section 3 that pertains to this contract.
- 14.1.3 **Appendix No. 3:** Scope of Services, as agreed upon by negotiation between the LHA and the Consultant;
- 14.1.4 **Appendix No. 4:** The proposed fee(s) submitted by this Consultant in response to the RFQ/P, or any negotiated fee(s) that resulted thereto, which fee(s) shall apply to each procurement that ensues from this contract;
- 14.1.5 Included by reference is any document or clause issued as a part of RFQ/P No. 16-0525-1 that the LHA may choose to include at any time during the performance of this contract or any options exercised thereto by the LHA. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the LHA upon written request for such from the Consultant.

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**14.2 Order of Precedence.** Please note that, in the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).

**15.0 CERTIFICATIONS:** The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

Hickey Peña Architects:

By:  Date: 8/22/17  
Mario Peña, Manager

Housing Authority of the City of Laredo, TX:

By:  Date: 8/22/17  
Melissa Ortiz, Acting/Interim Executive Director