

REGULAR MEETING AGENDA - ORANGE COUNTY HOUSING FINANCE TRUST

WEDNESDAY, NOVEMBER 17, 2021, 10:00 A.M.

HALL OF ADMINISTRATION - COMMISSION ROOM, FIRST FLOOR
333 W. Santa Ana Blvd., Santa Ana, California

DOUG CHAFFEE
Chairman

STEPHEN FAESSEL
Vice Chairman

DON BARNES
Director

LISA A. BARTLETT
Director

JAMEY FEDERICO
Director

SHARI FREIDENRICH
Director

FRED JUNG
Director

DAVID PENALOZA
Director

ED SACHS
Director

Trust Manager
Adam Eliason

Trust Counsel
Jacqueline Guzman

Clerk of the Trust
Robin Stieler

This agenda contains a brief general description of each item to be considered. The Orange County Housing Finance Trust encourages public participation. This meeting will be held in person and there are two options to attend the meeting remotely.

1) For Video, use the link to join the webinar remotely

<https://ocgov.webex.com/ocgov/onstage/g.php?MTID=ee33b136960e54e208299a99622540267>

Type first name, last name, and email, and then click the "Join Now" Button.

2) For Audio, call: +1 415-655-0001

Access Code: 2454 440 5511

The Board is accepting public comments to be submitted by emailing them to a Eliason@ochft.org on or before Tuesday, November 16, 2021, at 4:00pm. The comments will be distributed to all the Board Members and will be read into the record. If you wish to comment on a specific agenda item, please identify the item in your email. If you wish to speak on any agenda item during the meeting, time will be afforded for public comment during the meeting. General public comments may be addressed to the Board during the general public comment item on the agenda.

Except as otherwise provided by law, no action shall be taken on any item not appearing in the agenda. When addressing the Orange County Housing Finance Trust in person, please state your name for the record prior to providing your comments.

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the Clerk of the Board's Office 72 hours prior to the meeting at (714) 834-2206

*All supporting documentation is available for public review online at:
www.OCHFT.org and in the office of the Clerk of the Board of Supervisors located in the
Hall of Administration Building, 333 W. Santa Ana Blvd., 10 Civic Center Plaza, Room 465,
Santa Ana, California 92701 during regular business hours,
8:00 a.m. - 5:00 p.m., Monday through Friday.*

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONSENT CALENDAR ITEMS (Item 1):

1. Approve Orange County Housing Finance Trust minutes from the September 15, 2021, meeting

DISCUSSION ITEMS (Items 2-4):

At this time, members of the public in attendance may ask the Board to be heard, and emails received by members of the public will be read into the record on the following items as those items are called.

2. Recommend a firm to represent the Orange County Housing Finance Trust for State legislative advocacy and lobbying services through September 15, 2024; and authorize the Trust Manager to execute agreement
3. Approve operating agreement between the Orange County Housing Finance Trust (Trust) and Orange County Community Foundation (OCCF) to establish a donor advised fund; authorize the Trust Manager to execute the operating agreement; and setup form and authorize trust manager to establish a link on the trust website for direct donations to the established OCCF donor advised fund to benefit the trust.
4. Option to resume in person meetings or continue to meet virtually pursuant to newly enacted legislation and, if virtually, amend regular calendar to meet monthly

HOUSING TRUST MANAGER REPORT (Item 5):

5. Oral Report from the Housing Trust Manager

PUBLIC COMMENTS:

At this time members of the public in attendance may address the Trust, and emails received by deadline will be read into record on any matter not on the agenda but within the jurisdiction of the Trust. The Trust or Chair may limit the length of time each individual may have to address the Trust, and emails received are to be read.

DIRECTOR COMMENTS:

ADJOURNED:

NEXT MEETING: January 19, 2021, at 10:00 a.m.

Agenda Item 1

Minutes – September 15, 2021

**REGULAR MEETING SUMMARY ACTION MINUTES
ORANGE COUNTY HOUSING FINANCE TRUST**

WEDNESDAY, SEPTEMBER 15, 2021, 10:00 A.M.

DOUG CHAFFEE
Chair

STEPHEN FAESSEL
Vice Chairman

DON BARNES
Director

LISA A. BARTLETT
Director

JAMEY FEDERICO
Director

SHARI FREIDENRICH
Director

FRED JUNG
Director

DAVID PENALOZA
Director

ED SACHS
Director

Trust Manger
Adam Eliason

Trust Counsel
Jacqueline Guzman

Clerk of the Trust
Robin Stieler

ATTENDANCE: Directors Chaffee, Faessel, Bartlett, Federico, Freidenrich, Jung and Penaloza

ABSENT: Director Barnes and Sachs

PRESENT: Trust Counsel
Clerk of the Trust

Jacqueline Guzman
Robin Stieler

CALL TO ORDER

The Clerk called the meeting to order at 10:16 a.m.

PLEDGE OF ALLEGIANCE

Chairman Chaffee led the pledge of allegiance

ROLL CALL

The Clerk called the roll and confirmed quorum

CONSENT CALENDAR (Item 1)

1. Approve Orange County Housing Finance Trust minutes from the July 21, 2021, meeting
ON THE MOTION OF VICE CHAIRMAN FAESSEL, SECONDED BY CHAIRMAN CHAFFEE, BY A VOTE OF 6 TO 0, WITH DIRECTORS BARNES, PENALOZA AND SACHS BEING ABSENT, APPROVED THE ORANGE COUNTY HOUSING FINANCE TRUST MINUTES FROM THE JULY 21, 2021 MEETING

DISCUSSION ITEMS (Items 2-4):

2. Approve the 2021 update to the 2020-2025 Orange County Housing Finance Trust Strategic Plan
ON THE MOTION OF DIRECTOR JUNG, SECONDED BY CHAIRMAN CHAFFEE, BY A VOTE OF 7 TO 0, WITH DIRECTORS BARNES AND SACHS BEING ABSENT, APPROVED ITEM AS RECOMMENDED
3. Authorize the Trust Manager to execute a revised funding letter of commitment extending the funding expiration date to five projects awarded funding under the Orange County Housing Finance Trust's 2020 NOFA (Center of Hope to 2/6/22, FX Residences to 9/1/22, Mountain View to 12/27/21, Orchard View Senior Gardens and Santa Angelina to 6/30/22).
ON THE MOTION OF CHAIRMAN CHAFFEE, SECONDED BY VICE CHAIRMAN FAESSEL, BY A VOTE OF 7 TO 0, WITH DIRECTORS BARNES AND SACHS BEING ABSENT, THE BOARD APPROVED ITEM AS RECOMMENDED
4. Approve amendments to the Trust Bylaws related to the Trust Advisory Board composition and appointment.
ON THE MOTION OF CHAIRMAN CHAFFEE, SECONDED BY DIRECTOR FREIDENRICH, BY A VOTE OF 7 TO 0, WITH DIRECTORS BARNES AND SACHS BEING ABSENT, THE BOARD APPROVED ITEM AS RECOMMENDED

HOUSING TRUST MANAGER REPORT (Item 5)

5. Oral Report from the Housing Trust Manager

WILL BE ISSUING A REQUEST FOR PROPOSAL FOR MARKETING FIRMS TO REPRESENT THE TRUST TO ASSIST WITH VARIOUS MEDIA OUTREACH REGARDING THE TRUST'S ACCOMPLISHMENTS; AND ENSURE ANNUAL REPORT IS PROFESSIONAL AND PROMOTIONAL FOR A VARIETY OF PURPOSES FOR ADDITIONAL CAPITAL AND ADMINISTRATIVE FUNDING FOR THE TRUST

WILL BE SUBMITTING A DRAFT CAPITAL AND ADMINISTRATIVE PLAN FOR THE TRUST THAT ALSO INCLUDE HOW THE TRUST WILL APPROACH PHILANTHROPIC DONATIONS TO THE TRUST; COMPONENT OF PLAN WILL BE TO INTRODUCE AN OPERATING AGREEMENT BETWEEN THE ORANGE COUNTY COMMUNITY FOUNDATION AND THE TRUST TO MANAGE DONATIONS VERSUS THE TRUST SETTING UP THEIR OWN 501(c)(3)

CONTRACT WITH PLATINUM ADVISORS FOR ADVOCACY AND LOBBYING SERVICES HAS EXPIRED; WILL BE SEEKING BOARD DIRECTION ON REVIEW OF SUBMITTED PROPOSALS AND HIRING AN ADVOCACY AND LOBBYING FIRM TO CARRY THE TRUST INTO THE NEXT LEGISLATIVE SESSION

PUBLIC & TRUST COMMENTS:

PUBLIC COMMENTS: None

DIRECTOR COMMENTS

Director Faessel – Oral re: Discussion with Ben Hurst of the Salvation Army of Orange County regarding Center of Hope project and is working closely with the City of Anaheim in terms of permits; anticipates ground-breaking ceremony to occur in late December

Director Federico – Oral re: Reminded Directors and staff that the Joint Powers Authority agreement’s purpose is to find funding for all types of affordable housing, not just supportive and homeless housing but for persons and families of extremely low, very low and low income; suggested to look at other categories of affordable housing when reviewing next year’s Strategic Plan

Director Bartlett – Oral re: Suggested to broadcast workforce housing component to address work force needs in cities

ADJOURNED: 10:56 a.m.

NEXT MEETINGS: November 17, 2021, at 10:00 a.m.

DOUG CHAFFEE
Chair, Orange County Housing Finance Trust


ROBIN STIELER
Clerk of the Orange County Housing Finance Trust

Agenda Item 2
Legislative Advocacy &
Lobbying Services

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: November 17, 2021

SUBJECT: Recommend a firm to represent the Orange County Housing Finance Trust for State legislative advocacy and lobbying services through September 15, 2024; and authorize the Trust Manager to execute agreement.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. RECOMMEND A FIRM TO REPRESENT THE ORANGE COUNTY HOUSING FINANCE TRUST FOR STATE LEGISLATIVE ADVOCACY AND LOBBYING SERVICES THROUGH SEPTEMBER 15, 2024; AND AUTHORIZE THE TRUST MANAGER TO EXECUTE AGREEMENT IN THE FORM OF ATTACHMENT C.

BACKGROUND:

Since January 2020, the Orange County Housing Finance Trust has used Platinum Advisors for State Legislative Advocacy Services, with the goal of securing State funding for the Trust. Platinum Advisors' contract has expired. On October 6, 2021, Trust Staff issued a Request for Proposals (RFP) for State Legislative Advocacy Services.

The RFP was broadly advertised through a variety of sources including all lobby service firms registered with BidSync data base, advertisement in the Capital Morning Report that ran for a week, the Trust website and email to all Trust subscribers. The Request for Proposal can be found as Attachment A.

The Scope of Services included as part of the RFP includes tracking legislation that may impact the Trust or the mission of the Trust, drafting a state legislative platform for adoption by the Board, advocating for State funding for the Trust, and providing reports on legislation and advocacy efforts. The complete Scope of Services can be found as Attachment B.

PROPOSAL COMPARISON:

The Trust received seven proposals (Attachments D-J with a weblink provided for each) from the following firms:

1. Best Best & Krieger
2. Hurst Brooks Espinosa
3. Joe A. Gonsalvas & Son
4. Politico Group
5. Principle Strategic Advisors
6. Resolute
7. Townsend Public Affairs

A summary of each firm, their monthly fee proposal and a table of the final scoring is provided below.

Best Best & Krieger

Best Best & Krieger is a full-service law firm that specializes in working with public agencies, that also does advocacy work at both the Federal and State level. Best Best & Krieger has represented cities and other JPAs in their lobbying efforts, in addition to representing cities as outside counsel.

The Trust would be represented by Syrus Devers, Director of Governmental Affairs, with support from Best Best & Krieger staff. Syrus was hired by the Association of California Cities-Orange County and led the successful lobbying efforts to pass AB448 that created the Orange County Housing Finance Trust.

Hurst Brooks Espinosa

Hurst Brooks Espinosa (HBE) is a full-service, Sacramento-based governmental advocacy firm providing services primarily to public sector clients. Hurst Brooks Espinosa represents many counties throughout California, including Los Angeles County, Riverside County, Ventura County, Colusa County, Santa Cruz County, and Santa Clara County.

The Trust would be represented by Jean Kinney Hurst, Partner at Hurst Brooks Espinosa, with support from the firm's two other Partners, Kelly Brooks and Elizabeth Espinosa.

Joe A. Gonsalvas & Son

Joe A. Gonsalvas & Son is an advocacy firm based in Sacramento, CA. They represent the Irvine Community Land Trust and are familiar with the type of work housing trusts do.

The Trust would be represented by Anthony Gonsalvas, the second-generation owner of Joe A. Gonsalvas & Son, and supported by Jason A. Gonsalvas and Paul A. Gonsalvas.

Politico Group

Politico Group is a public affairs, legislative advocacy, and consulting firm established 1974 that focuses on representing clients whose needs require specific expertise in, housing, land use, energy, water, and utility related matters.

The Trust would be represented by Kiana Valentine, Partner with Politico Group, and supported by Eddie Bernacchi, Politico Group's owner, and Brett Barrow, another Partner with Politico Group.

Principle Strategic Advisors

Principle Strategic Advisors is an Orange County based public policy, advocacy, and executive management firm that works with public, nonprofit, and private sector clients. In addition, Principle Strategic Advisors has experience representing organizations at the intersection of housing and mental health, including Housing for Health OC and Be Well OC, as well as multiple affordable housing developers such as American Family Housing and Jamboree Housing Corporation.

The Trust would be represented by Heather Stratman, the President of Principle Strategic Advisors. Heather has extensive experience with the Trust and was instrumental in the passage of Assembly Bill 448, which allowed for the creation of the Trust.

Resolute

Resolute is a Sacramento based advocacy and consulting firm. They have experience working with trade associations and public entities before Air Resources Board, the Energy Commission, and the State Water Resources Control Board, any many other regulatory bodies.

The Trust would be represented by Jarrell Cook, Partner with Resolute, and supported by three other Partners, Alfredo Arredondo, William Barnaby Sr., and William Barnaby Jr.

Townsend Public Affairs

Townsend Public Affairs is an advocacy firm based in Newport Beach, CA. They represent cities and other public entities, including water and sewer districts, and community college districts.

The Trust would be represented by Cori Takkinen, Vice President at Townsend Public Affairs, and supported by Casey Elliott, Niccolo De Luca, and Christopher Townsend.

DISCUSSION:

Each of these seven firms are qualified to represent the Trust in Sacramento.

The RFP provided the Trust approved budget of \$6,000 a month for this contract. All of the firms, with the exception of BB&K, responded with a monthly fee of \$6,000. BB&K responded with a proposed fee of \$5,000 a month. The fees are summarized in the table below.

Firm	Monthly Fee	Expenses	Total Annual Fee
Best Best & Krieger	\$5,000	\$0	\$60,000
Hurst Brooks Espinosa	\$6,000	\$0	\$72,000
Joe A. Gonsalvas & Son	\$6,000	\$0	\$72,000
Politico Group	\$6,000	\$0	\$72,000
Principle Strategic Advisors	\$6,000	\$0	\$72,000
Resolute	\$6,000	\$0	\$72,000
Townsend Public Affairs	\$6,000	\$0	\$72,000

As mentioned previously, a panel of four reviewers analyzed all seven proposals against a weighted set of criteria. The weighting and specifics of each criteria are detailed below:

- **Qualifications & Related Experience (30%):**
 - Specific significant related experience and expertise in the services requested in the Scope of Services;
 - Qualifications and experience of the firm;
 - Specific experience working on housing issues, specifically affordable housing finance;
 - Strong ties to Orange County’s Sacramento delegation.
- **Proposed Staffing and Key Personnel (30%):**
 - Qualifications of key personnel; ability to provide experienced staffing to fulfill the services outlined in the Scope of Services; project manager and key personnel possess experience working with public agencies to provide similar services.
- **Work Plan (20%):**
 - Methods for approaching project and established plan to accomplish the services noted in the scope of services.
- **Cost Proposal (10%):**
 - Proposed payment is within Trust’s approved budget.
- **Organization/Completeness of Response & Degree of Compliance with Model Contract (10%):**
 - Understanding of project & objectives as it relates to the scope of work;
 - RFP requirements are addressed and adhered to;
 - Minimal exceptions, acceptable exceptions, or no exceptions noted to the proposed agreement;
 - Proposal is complete, comprehensive, and well- organized.

A summary of all four reviewers scores for each proposal are included below along with the average score.

Firm	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Average Score
Townsend Public Affairs	90	92	92	76	87.5
Principle Strategic Advisors	84	86	82	94	86.5
Politico Group	78	92	80	70	80
Hurst Brooks Espinosa	84	70	78	82	78.5
Best Best & Krieger	80	90	70	52	73
Resolute	76	50	68	74	67
Joe A. Gonsalvas & Son	60	68	72	62	65.5

The proposal summaries and review committee scoring are meant to provide the Trust Board with information and a basis for a discussion as to which firm to select or not to recommend.

Staff requests that the Trust Board discuss the proposals and approve a firm to represent the Trust. The recommended action also includes authorizing the Trust Manager to execute an agreement with the approved firm (See Attachment C).

ATTACHMENTS:

Attachment A – Request for Proposal

Attachment B – Scope of Services

Attachment C – State Legislative Advocacy Services Contract Template

Attachment D – Proposal from Best Best & Krieger

<https://ochft.org/s/Attachment-D-Proposal-from-Best-Best-Krieger.pdf>

Attachment E – Proposal from Hurst Brooks Espinosa

<https://ochft.org/s/Attachment-E-Proposal-from-Hurst-Brooks-Espinosa.pdf>

Attachment F – Proposal from Joe A. Gonsalvas & Son

<https://ochft.org/s/Attachment-F-Proposal-from-Joe-A-Gonsalvas-Son.pdf>

Attachment G – Proposal from Politico Group

<https://ochft.org/s/Attachment-G-Proposal-from-Politico-Group.pdf>

Attachment H – Proposal from Principle Strategic Advisors

<https://ochft.org/s/Attachment-H-Proposal-from-Principle-Strategic-Advisors.pdf>

Attachment I – Proposal from Resolute

<https://ochft.org/s/Attachment-I-Proposal-from-Resolute.pdf>

Attachment J – Proposal from Townsend Public Affairs

<https://ochft.org/s/Attachment-J-Proposal-from-Townsend-Public-Affairs.pdf>

Request for Proposal

State Legislative Advocacy Services



1 League #62335

Irvine, CA 92602

(909) 706-7193

Key RFP Dates

Issue Date: October 6, 2021

Proposal Submittal Deadline: October 19, 2021

The Orange County Housing Finance Trust (“OCHFT” or “Trust”) is issuing this Request for Proposal for State Legislative Advocacy Services to engage the services of a firm to provide State Legislative Advocacy Services as more specifically described below.

OCHFT Background

The Orange County Housing Finance Trust is a Joint Powers Authority formed in March 2019 between the County of Orange and 23 of the 34 cities in Orange County, California. A complete list of member cities can be found in Attachment 1.

Creating of the Trust was authorized on September 11, 2018 with the enactment of Assembly Bill 448. AB 448 allowed the County of Orange and any of the cities within Orange County to mutually create a joint powers authority. The collaborative effort will allow the Orange County region to be more competitive and access additional funding sources available to address the homelessness and affordability crisis.

Following the passage of AB 448, the County worked with representatives from the Association of California Cities Orange County to form a collaborative working group, comprised of elected officials and staff from both the County and cities to establish the initial framework for the Trust.

On March 12, 2019, the Orange County Board of Supervisors approved the OCHFT Joint Powers Authority Agreement, which formally brought the Trust into existence.

The mission of the Trust is to strengthen the communities in Orange County by financing the development of affordable housing for homeless and low-income individuals and families. The Trust is working to achieve this mission by contributing to the construction of 2,700 permanent supportive housing units and working to secure funding that will contribute to additional affordable housing units by 2025.

During its first two years of operation, the Trust has awarded over \$19.3 million to thirteen affordable housing communities throughout Orange County. The Trust expects to be able to award approximately \$10 million per year over the next three years for additional affordable communities in the County, and is looking for additional funding from private donations and other government sources.

Scope of Services

Consultant shall provide services and advice to the Trust’s Board of Directors and staff, and be informed about the Trust’s mission, finances, operations, and legislative history to objectively articulate potential impacts from pending legislation. Legislative and regulatory needs and the expected approach to accomplishing these services for the Trust may vary at times and the Consultant shall modify the strategy accordingly. As directed by the Trust, Consultant shall perform services to include, but not limited to, the following:

1) Administrative, Statutory, or Regulatory Efforts

Monitor the statutory and regulatory process and engage as necessary in the following issue areas:

- Joint Powers Authorities authorizing statutes.
- Modifications to Regional Housing Needs Assessment methodology and allotment.
- Modifications to state-wide affordable housing financing programs.
- Modifications to Local Housing Trust Fund Program implementing procedures or program extension.
- Budget surplus allocation for affordable housing, regional housing finance trusts, and the OCHFT.

2) State Legislative Platform

The state legislative platform seeks to identify issues or actions that may be pursued during a legislative session and outlines the Trust's statutory, regulatory, legislative, and administrative goals and will serve as the Board's policy guidelines throughout the relevant two-year legislative cycle. Consultant shall perform the following:

- Working with Trust staff, draft the Trust's state legislative platform focused on the next two-year legislative cycle for Trust Board approval.
- Review and update the state legislative platform as needed for the second year of the two-year legislative cycle.
- Create annual legislative watch list and update monthly to track legislation that could impact the mission and goals of the Trust.
- Make recommendations to the Trust Board and staff regarding legislation that may impact the Trust's authorizing statute, mission, finances, and operations.
- Provide bi-monthly oral reports to the Trust Board of Directors.
- Submit written legislative updates to include activities and status report for inclusion in the agenda packet for the bi-monthly Board of Directors meeting.

3) Liaison and Advocacy Activities

- Recommend appropriate meetings for Trust Board members and staff with key legislators and provide logistical support for Sacramento visits.
- Notify Trust staff of anticipated, newly introduced or amended state legislation, regulations, and administrative policies that could impact the Trust and provide a legislative analysis on how such actions may affect the interest of the Trust and a strategy to address those impacts.
- Working closely with Trust staff, develop positions and strategies to implement the Trust's legislative objectives.
- Attend hearings and other public sessions of interest on behalf of the Trust.
- Testify at legislative hearings on behalf of the Trust and/or prepare testimony for Trust Board members and staff as needed.
- Assist Trust staff with the preparation of written materials supporting the Trust's legislative goals, including, but not limited to letters, talking points, legislative language, legislative summaries, and position papers.
- Provide advocacy advice to the Trust.

- Build alliances and coalitions with like-minded entities to advance the Trust’s legislative interests.
- Maintain frequent contact with the Orange County legislative delegation and their staff to represent and advocate Trust policies and positions.
- Maintain direct and frequent contact with key members and staff of appropriate Senate and Assembly Committees to represent, educate and advocate Trust policies and positions
- Meet with and arrange meetings as appropriate for Trust Board members and staff with Executive Branch officials and departments including the California Department of Housing and Community Development, California Housing Finance Agency, and other relevant agencies.

4) Additional Responsibilities

- Undertake additional assignments as needed and mutually agreed to by both parties.

5) As-Needed Services

- From time to time the Trust may request Consultant to provide services on an as-needed basis. Such services shall be approved in writing by the Trust prior to commencement of such as-needed services by Consultant.

A model professional services contract for this Scope of Services is included as Attachment 2

Preparation of Proposals

Proposals shall be accepted via email to ghenninger@ochft.org no later than October 19, 2021 at 5:00 PM. Proposals should be sent as a single PDF file.

The proposal shall include the following information:

- 1) Letter of Transmittal. The proposer shall provide a Letter of Transmittal addressed to Adam Eliason, Manager, Orange County Housing Finance Trust.
- 2) Contact Person. The proposer shall provide the name and title, address, telephone number, and e-mail address of the contact person for the proposal evaluation period.
- 3) Validity Period. The proposer shall specify a proposal validity period of no less than 120 days from the Proposal Submittal Deadline.
- 4) Subcontractors. The proposer shall designate each entity that is proposed to perform work or render services pursuant to a subcontract, detailing the extent of subcontracting contemplated. Information regarding suppliers is required only if the supply subcontract is anticipated to have a value exceeding 10% of the proposed value of the prime contract.
- 5) Conflicts of Interest. The proposer shall provide a completed Attachment 3, *Conflict-of-Interest Disclosure Statement*.

The following provides guidelines for the format and content of the proposal and the approach to be used in its development and presentation. The intent of this RFP is to encourage responses that clearly communicate the proposer's understanding of the Trust's requirements and its approach to successfully provide the services on time and within budget. Only that information which is essential to an understanding and evaluation of the Proposal should be submitted. Items not specifically and explicitly related to the RFP and Proposal (e.g., brochures, marketing material, etc.) will not be considered in the evaluation.

Proposer must provide the following minimum requirements:

- Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- Describe how the firm proposes to staff this contract. Provide education, experience and applicable professional credentials of project staff. Identify the principals who will be engaged in the day-to-day activities for the Trust, their current assignments, level of commitment to those assignments, availability for this assignment, and how long each person has been with the firm. Furnish brief resumes (not more than two pages each) for the proposed principals and project staff who will work on the project.
- Identify subcontractors, if any, by company name, address, contact person, telephone number and project function. Describe proposers experience working with each subcontractor.
- Include the firm's organization chart, clearly delineating the communication/reporting relationships among the firm's proposed staff and the Trust.
- Include a statement that the principals and key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Trust.
- Describe the firm's experience in providing legislative advocacy and consulting services to joint powers authorities and on housing related issues.
- Describe the firm's experience in performing services of a similar nature to that solicited in this RFP and highlight the participation in such services by the key personnel proposed for assignment to this project.
- Describe the experience of the principals and key personnel in working with the State Legislature and legislative accomplishments in the past six years. Provide samples of projects and programs.
- In not more than five pages, describe your firm's success in representing public agencies and other clients.
- List the members of the State Legislature, particularly those within the Orange County delegation with whom the principals and key personnel have a professional relationship and describe each relationship.

- Provide examples of the scope of services for your current clients and narrative examples of accomplishments in achieving the requirements identified in the respective scopes of services.
- Describe the firm’s proposed approach to representing the Trust in Sacramento.
- Provide samples of past reports, informational material, and written correspondence which show specific accomplishments similar to what you would expect to accomplish for the Trust.

Compensation Proposal.

The proposer shall deliver, with their proposal, Attachment 4, *Compensation Proposal*, specifying a monthly fee inclusive of all expenses. It is anticipated that the Trust will issue a three-year contract with a firm fixed price, which shall include all expenses and other compensation for the proposer.

The Trust has an approved budget of \$72,000 (\$6,000/mo.) for FY 2021-2022 for these services.

Disclosure of Contributions.

The proposer shall deliver, with their proposal, Attachment 5, *Disclosure of Contributions*, identifying all Trust Board members who received contributions from proposer within the preceding 12 months in excess of \$250, or stating that no contributions were made that require disclosure. This disclosure requirement includes all “Parties” and “Participants” to this action as those terms are defined in Government Code §84308 (use extra forms as required).

Confidential and Proprietary Information

Proposals are not to be marked as confidential or proprietary. The County may refuse to consider any proposal so marked. Proposals submitted in response to this RFP may become subject to public disclosure per the requirements of the California Public Records Act, Government Code Section 6250 et seq. The County shall not be liable in any way for disclosure of any such records. Additionally, all Proposals shall become the property of the County. The County reserves the right to make use of any information or ideas in the Proposals submitted.

Proposal Review and Selection

1. The Trust shall initially review all proposals to determine the responsiveness to this RFP.
2. The Trust shall convene an evaluation panel to evaluate each responsive proposal. Criteria used as the basis for evaluation and ranking shall include:
 - Professional capability, demonstrated competence and specialized experience of the proposer;
 - Work plan/methodology;
 - Experience working with Orange County’s legislative delegation to appropriate funds;
 - Understanding of the Trust’s needs;
 - Nature and quality of services provided to other clients;

- Reliability and continuity of the proposer;
- Company management structure and commitment to the project;
- Staffing capability, workload and ability to meet schedules;
- Education and experience of key personnel;
- Compensation Proposal;
- References; and
- Ease of administration.

Proposals deemed to meet all minimum RFP requirements will be scored based on established criteria, which have been weighted and will be assigned points that measure the responsiveness to each identified criterion. The total number of points earned will be tallied for each Proposal, and the Proposals will be rank-ordered, based upon Offeror(s) submitted written materials.

3. The Trust will rank the proposals, applying the foregoing evaluation criteria to the proposals. Upon completion of the evaluation process, the evaluation panel will summarize the strengths of each proposal, their scoring, and their rank-ordering for a decision by the Trust Board.
4. The Trust may reject all proposals without further discussion or commence negotiations with the highest ranked proposer. If the Trust commences negotiations, the Trust may negotiate any component of the proposal. The proposer on the other hand, may raise issues only to the extent they are interrelated with negotiated topics raised by the Trust.
5. In the event negotiations with the highest ranked proposer are not successful, the Trust may suspend negotiations with this proposer and commence negotiations with the next highest ranked proposer. This process shall be followed until negotiations are successfully concluded or the Trust, at any time, rejects all proposals.

Instructions – Protest Procedures

Any actual or prospective Proposer or Contractor who alleges a grievance by the solicitation or award of a contract may submit a grievance or protest to ghenninger@ochft.org.

1. All protests shall be typed under the protester's letterhead and submitted in accordance with the provisions stated herein. All protests shall include at a minimum the following information:
 - a. The name, address and telephone number of the protester;
 - b. The signature of the protester or the protester's representative;
 - c. The solicitation or contract number;
 - d. A detailed statement of the legal and/or factual grounds for the protest; and
 - e. The form of relief requested.

2. Protest of Bid/Proposal Specifications:

All protests related to bid or proposal specifications must be submitted no later than five (5) business days prior to the close of the bid or proposal. Protests received after the five (5) business day deadline will not be considered by the Trust.

In the event the protest of specifications is denied and the protester wishes to continue in the solicitation process, they must still submit a proposal prior to the close of the solicitation in accordance with the bid/proposal submittal procedures stated in this RFP.

3. Protest of Award of Contract:

In protests related to the award of a contract, the protest must be submitted no later than five (5) business days after the notice of the proposed contract award is provided. Protests relating to a proposed contract award which are received after the five (5) business day deadline will not be considered by the Trust.

4. Protest Process:

- a. In the event of a timely protest, the Trust shall not proceed with the solicitation or award of the contract until the Trust Manager renders a decision on the protest.
- b. Upon receipt of a timely protest, the Trust Manager will within ten (10) business days of the receipt of the protest, issue a decision in writing which shall state the reasons for the actions taken.
- c. The Trust may, after providing written justification to be included in the procurement file, makes the determination that an immediate award of the contract is necessary to protect the substantial interests of the Trust. The award of a contract shall in no way compromise the protester's right to the protest procedures outlined herein.
- d. If the protester disagrees with the decision of the Trust Manager, the protestor may submit a written notice to the Office of the County Purchasing Officer requesting an appeal to the Procurement Appeals Board, in accordance with the process stated below.

5. Appeal Process:

- a. If the protester wishes to appeal the decision of the Trust Manager, the protester must submit, within three (3) business days from receipt of the Trust Manager's decision, a written appeal to the Office of the County Purchasing Officer.
- b. Within fifteen (15) business days, the County Purchasing Agent will review all materials in connection with the grievance, assess the merits of the protest and provide a written determination that shall contain their decision on whether the protest shall be forwarded to the Procurement Appeals Board.

- c. The decision of the County Purchasing Agent on whether to allow the appeal to go forward will be final and there shall be no right to any administrative appeals of this decision.

Attachment 1

List of Trust Members

1. Aliso Viejo
2. Anaheim
3. Buena Park
4. Costa Mesa
5. County of Orange
6. Dana Point
7. Fountain Valley
8. Fullerton
9. Garden Grove
10. Huntington Beach
11. Lake Forest
12. Laguna Beach
13. Laguna Hills
14. Laguna Niguel
15. La Habra
16. Mission Viejo
17. Newport Beach
18. Orange
19. Placentia
20. San Juan Capistrano
21. Santa Ana
22. Stanton
23. Tustin
24. Westminster

Attachment 2

Model Contract

**MODEL/PROPOSED CONTRACT
BETWEEN
ORANGE COUNTY HOUSING FINANCE TRUST
AND
[INSERT COMPANY NAME/TBD]
FOR
State Legislative Advocacy Services**

This Contract for State Legislative Advocacy Services, hereinafter referred to as “Contract” is made and entered into as of the date fully executed by and between the Orange County Housing Finance Trust, a California public agency formed pursuant to California Government Code section 6500 et. seq. with a place of business at 1 League #62335, Irvine, CA 92602; hereinafter referred to as “Trust”, and [Insert Company Name /TBD] with a place of business at [Insert Address/TBD]; hereinafter referred to as “Contractor”, with Trust and Contractor sometimes referred to as “Party”, or collectively as “Parties”.

ATTACHMENTS

Attachment A – Scope of Work
Attachment B – Compensation/Payment
Attachment C – Staffing Plan

i. RECITALS

WHEREAS, Trust issued a Request for Proposal (RFP) for State Legislative Advocacy Services; and

WHEREAS, the Contractor responded and represents that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

WHEREAS, the Trust Board of Directors has authorized the Trust Manager or their designee to enter into a Contract with Contractor for State Legislative Advocacy Services; and

NOW, THEREFORE, the parties mutually agree as follows:

ii. ARTICLES

I. GENERAL TERMS AND CONDITIONS:

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. Entire Contract:** This Contract, including Attachments A, B, and C which are attached hereto and incorporated herein by this reference, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on Trust unless authorized by Trust in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any Trust employee or agent, including but not limited to installers of software, shall not be valid or binding on Trust unless accepted in writing by Trust's Agent or designee.
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on Trust unless authorized by Trust in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. Delivery:** Time of delivery of goods or services is of the essence in this Contract. Trust reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind Trust to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by Trust. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by Trust.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by Trust, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of Trust, and 2) payment shall be made in arrears after satisfactory acceptance.

- G. Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold Trust and its indemnities as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by Trust by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold Trust and Trust Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.
- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of Trust. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of Trust shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, Trust has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by Trust of its right to terminate the Contract shall relieve Trust of all further obligation.

L. Consent to Breach Not Waiver: No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

M. Independent Contractor: Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of Trust. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through Trust.

N. Performance: Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to Trust's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of Trust required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

O. Insurance Provisions: Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the Trust that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the Trust during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by Trust from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by Trust representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the Trust's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor,

in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the Trust harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the Trust at its sole cost and expense with counsel approved by Board of Directors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the Trust was the insured.

If the Contractor fails to maintain insurance acceptable to the Trust for the full term of this Contract, the Trust may terminate this Contract.

Qualified Insurer:

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the Trust retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms:

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements:

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***Trust, its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT***.
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the Trust shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***Trust, its elected and appointed officials, officers, agents and employees*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT***.

All insurance policies required by this Contract shall waive all rights of subrogation against the Trust, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify Trust in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to Trust. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the Trust may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interest's clause also known as a "separation of insured" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

Trust expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by Trust Risk Manager as appropriate to adequately protect Trust.

Trust shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with Trust incorporating such changes within thirty (30) days of receipt of such notice, this

Contract may be in breach without further notice to Contractor, and Trust shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

P. Changes: Contractor shall make no changes in the work or perform any additional work without the Trust's specific written approval.

Q. Change of Ownership/Name, Litigation Status, Conflicts with Trust Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the Trust agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the Trust.

Trust reserves the right to immediately terminate the Contract in the event the Trust determines that the assignee is not qualified or is otherwise unacceptable to the Trust for the provision of services under the Contract.

In addition, Contractor has the duty to notify the Trust in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the Trust in writing if the Contractor becomes a party to any litigation against the Trust, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and Trust that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the Trust any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the Trust of its status in these areas whenever requested by the Trust.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with Trust interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence Trust staff or elected officers in the performance of their duties.

R. Force Majeure: Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to Trust within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

S. Confidentiality: Contractor agrees to maintain the confidentiality of all Trust and Trust-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

Contractor's confidentiality obligations in this Contract and the obligations of this Section S shall survive the termination or expiration of the Contract and all related subordinate contracts.

T. Compliance with Laws: Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by Trust in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by Trust. Contractor acknowledges that Trust is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold Trust and Trust Indemnities harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

U. Freight: Prior to the Trust's express acceptance of delivery of products, Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

V. Severability: If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

W. Attorney Fees: In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.

X. Interpretation: This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

Y. Employee Eligibility Verification: The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by Trust, and hold harmless, the Trust, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the Trust or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

Z. Indemnification: Contractor agrees to indemnify, defend with counsel approved in writing by Trust, and hold Trust, its elected and appointed officials, officers, employees, agents and those special districts and agencies which Trust's Board of Directors acts as the governing Board ("Trust Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and Trust by a court of competent jurisdiction because of the concurrent active negligence of Trust or Trust Indemnitees, Contractor and Trust agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

AA. Audits/Inspections: Contractor agrees to permit the Trust's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the Trust) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The Trust will provide reasonable notice of such an audit or inspection.

The Trust reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the Trust to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the Trust's project manager.

BB. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to Trust; and inclusion of sufficient funding for the services hereunder in the budget approved by Trust's Board of Directors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, Trust may immediately terminate or modify this Contract without penalty.

CC. Expenditure Limit: The Contractor shall notify the Trust assigned Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The Trust will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

II. ADDITIONAL TERMS AND CONDITIONS:

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the Trust will procure services from Contractor as set forth in the Scope of Work, attached hereto as Attachment A and incorporated by this reference.
2. **Term of Contract:** This Contract shall commence on **TBD** or upon execution of all necessary signatures, whichever comes later, and continue for five calendar years from that date, unless otherwise terminated by Trust.
3. **Compensation/Payment:** The Contractor agrees to accept the specified compensation, as set forth in Attachment B – Compensation/Payment, as full remuneration for performing all services and materials called for. The Contractor assumes responsibility for performance of all its duties and obligations hereunder.
5. **Usage:** No guarantee is given by the Trust to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the Trust, at rates/prices listed in the Contract, regardless of quantity requested.
6. **Adjustments-Scope of Work:** No adjustments made to the scope of work will be authorized or paid for without prior written approval of the Trust assigned Agent.
7. **Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

- 8. Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "Z" above, indemnify, defend, and hold Trust harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
- 9. Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the Trust may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Terminate the Contract immediately, pursuant to Section K herein;
 - b. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - c. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - d. Offset against any monies billed by the Contractor but yet unpaid by the Trust those monies disallowed pursuant to the above.
- 10. Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
- 11. Confidentiality of Contractor's Records:** Contractor agrees to maintain the confidentiality of its records pursuant to all statutory laws relating to privacy and confidentiality as now in existence or as hereafter amended or changed. All records and information concerning any and all matters referred to the Contractor by the Trust shall be considered and kept confidential by the Contractor and the Contractor's officers, employees, agents, sub-contractors, and sub-tiers. Information obtained by the Contractor in the performance of this Contract shall be treated as strictly confidential and shall not be used by the Contractor for any purpose other than the performance of this Contract.
- 12. Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the Trust. The Trust assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the Trust are expressly stated in the Contract.

13. Conflict of Interest – Contractor’s Personnel: The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the Trust. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence Trust staff or elected officers from acting in the best interests of the Trust.

14. Conflict of Interest – Trust Personnel: The Trust Board of Directors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any Trust employee for any purpose.

15. Contractor’s Records: The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the Trust. Storage of records in another county will require written approval from the Trust assigned Agent.

16. Contractor Personnel – Reference Checks: The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

17. Covenant against Contingent Fees: Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of getting business.

For breach or violation of this warranty, the Trust shall have the right to terminate this Contract in accordance with the termination clause and, its sole discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee from the Contractor.

18. Data-Title to: All materials, documents, data or information obtained from the Trust data files or any Trust medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the Trust. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the Trust. All materials, documents, data or information, including copies, must be returned to the Trust at the end of this Contract.

19. Debarment: Contractor certifies that neither contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency. Where contractor as the recipient of recipient of federal funds, is unable to certify to any of the statements in the certification, Contractor must include an explanation with their bid/proposal. Debarment, pending debarment, declared ineligibility or voluntary exclusion from participation by any Federal department or agency may result in the bid/proposal being deemed non-responsible.

20. Disputes – Contracts:

A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the

dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the Trust's Project Manager, such matter shall be brought to the attention of the Trust Agent by way of the following process:

1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the Trust, on its own initiative, has already rendered such a final decision.
2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the Trust is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract,

the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the Trust shall be expressly identified as such, shall be in writing, and shall be signed by the Trust Agent or his designee. If the Trust fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the Trust's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

21. Gratuities: The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the Trust with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the Trust shall have the right to terminate the Contract, either in whole or in part, and any loss or damage

precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments and exhibit.

26. Price Increase/Decrease: No price increases will be permitted during the first period of the price agreement. The Trust requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the Trust. The Trust may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.

27. Project Manager and Key Personnel – Contractor: Contractor shall appoint a Project Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by the Trust and shall not be changed without the written consent of the Trust's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The Trust's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager from providing services to the Trust under this Contract. The Trust's Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the Trust's Project Manager. The Trust's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager. The Trust is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

28. Project Manager – Trust: The Trust shall appoint a project manager to act as liaison between the Trust and the Contractor during the term of this Contract. The Trust's project manager shall coordinate the activities of the Trust staff assigned to work with the Contractor.

The Trust's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The Trust's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice from the Trust's project manager. The Trust's project manager shall review and approve the appointment of the replacement for the Contractor's project manager and key personnel. Said approval shall not be unreasonably withheld. The Trust is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

29. Remedies Not Exclusive: The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the

expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.

30. Reports/Meetings: The Trust's Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the Trust for the purpose of monitoring progress under this Contract.

31. Responsibility of the Contractor: The Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all reports, documentation, and services furnished by the Contractor under this Contract. The Contractor shall perform such services as may be necessary to accomplish the work required to be performed under and in accordance with this Contract. The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in Attachment A, Scope of Work.

32. Subcontracting: No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the Trust. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the Trust shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the Trust to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The Trust shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the Trust.

33. Substitutions: The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior Trust written approval.

34. Termination – Default: If Contractor is in default of any of its obligations under this Contract and has not commenced cure within ten days after receipt of a written notice of default from Trust and cured such default within the time specified in the notice, the Trust shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this Contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this Contract, including but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this Contract. Upon termination of the Contract with Contractor, the Trust may begin negotiations with a third-party contractor to provide services as specified in this Contract.

35. Termination – Orderly: After receipt of a termination notice from the Trust, the Contractor shall submit to the Trust a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination,

unless one or more extensions in writing are granted by the Trust upon written request of the Contractor. Upon termination, Trust agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

- 36. Title to Data:** All materials, documents, data or information obtained from the Trust data files or any Trust medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the Trust. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract. All materials, documents, data or information, including any copies, and all Trust Employees Workers' Compensation claim files, must be returned to the Trust at the end of this Contract.
- 37. Waivers-Contract:** The failure of the Trust in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.
- 38. Contract Award – Multiple:** The Trust reserves the right, at its sole discretion, to make multiple awards to bidders/proposers for services requested in this solicitation.

MODEL CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

CONTRACTOR*

** If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth.*

The first corporate officer signature must be one of the following 1) the Chairman of the Board 2) the President 3) any Vice President.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

Print Name *Title*

(DO NOT SIGN THIS TIME)

Signature *Date*

The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.

Print Name *Title*

(DO NOT SIGN THIS TIME)

Signature *Date*

Orange County Housing Finance Trust, a California public agency formed pursuant to California Government Code section 6500 et. seq.

Print Name *Title*

Signature *Date*

ATTACHMENT A
SCOPE OF WORK

I. BACKGROUND

The Orange County Housing Finance Trust is a Joint Powers Authority formed in March 2019 between the County of Orange and 23 of the 34 cities in Orange County, California. A complete list of member cities can be found in Attachment 1.

Creating of the Trust was authorized on September 11, 2018 with the enactment of Assembly Bill 448. AB 448 allowed the County of Orange and any of the cities within Orange County to mutually create a joint powers authority. The collaborative effort will allow the Orange County region to be more competitive and access additional funding sources available to address the homelessness and affordability crisis.

Following the passage of AB 448, the County worked with representatives from the Association of California Cities Orange County to form a collaborative working group, comprised of elected officials and staff from both the County and cities to establish the initial framework for the Trust. On March 12, 2019, the Orange County Board of Supervisors approved the OCHFT Joint Powers Authority Agreement, which formally brought the Trust into existence.

The mission of the Trust is to strengthen the communities in Orange County by financing the development of affordable housing for homeless and low-income individuals and families. The Trust is working to achieve this mission by contributing to the construction of 2,700 permanent supportive housing units and working to secure funding that will contribute to additional affordable housing units by 2025.

During its first two years of operation, the Trust has awarded over \$19.3 million to thirteen affordable housing communities throughout Orange County. The Trust expects to be able to award approximately \$10 million per year over the next three years for additional affordable communities in the County, and is looking for additional funding from private donations and other government sources.

II. TRUST RESPONSIBILITIES

1. Trust will assign a Trust Project Manager and coordinate work closely with Contractor.
2. Trust Project Manager will monitor and track project status to ensure it is progressing within the project timeframe.
3. Trust Project Manager will review and approve all work, materials, reports, and deliverables required in this Contract.

III. CONTRACTOR RESPONSIBILITIES

Contractor shall provide services and advice to the Trust's Board of Directors and staff, and be informed about the Trust's mission, finances, operations, and legislative history to objectively articulate potential impacts from pending legislation. Legislative and regulatory needs and the expected approach to accomplishing these services for the Trust may vary at times and the Contractor shall modify the strategy accordingly. As directed by the Trust, Contractor shall perform services to include, but not limited to, the following:

1) Administrative, Statutory, or Regulatory Efforts

Monitor the statutory and regulatory process and engage as necessary in the following issue areas:

- Joint Powers Authorities authorizing statutes.
- Modifications to Regional Housing Needs Assessment methodology and allotment.
- Modifications to state-wide affordable housing financing programs.
- Modifications to Local Housing Trust Fund Program implementing procedures or program extension.
- Budget surplus allocation for affordable housing, regional housing finance trusts, and the OCHFT.

2) State Legislative Platform

The state legislative platform seeks to identify issues or actions that may be pursued during a legislative session and outlines the Trust's statutory, regulatory, legislative, and administrative goals and will serve as the Board's policy guidelines throughout the relevant two-year legislative cycle. Contractor shall perform the following:

- Working with Trust staff, draft the Trust's state legislative platform focused on the next two-year legislative cycle for Trust Board approval.
- Review and update the state legislative platform as needed for the second year of the two-year legislative cycle.
- Create annual legislative watch list and update monthly to track legislation that could impact the mission and goals of the Trust.
- Make recommendations to the Trust Board and staff regarding legislation that may impact the Trust's authorizing statute, mission, finances, and operations.
- Provide bi-monthly oral reports to the Trust Board of Directors.
- Submit written legislative updates to include activities and status report for inclusion in the agenda packet for the bi-monthly Board of Directors meeting.

3) Liaison and Advocacy Activities

- Recommend appropriate meetings for Trust Board members and staff with key legislators and provide logistical support for Sacramento visits.
- Notify Trust staff of anticipated, newly introduced or amended state legislation, regulations, and administrative policies that could impact the Trust and provide a legislative analysis on how such actions may affect the interest of the Trust and a strategy to address those impacts.

- Working closely with Trust staff, develop positions and strategies to implement the Trust's legislative objectives.
- Attend hearings and other public sessions of interest on behalf of the Trust.
- Testify at legislative hearings on behalf of the Trust and/or prepare testimony for Trust Board members and staff as needed.
- Assist Trust staff with the preparation of written materials supporting the Trust's legislative goals, including, but not limited to letters, talking points, legislative language, legislative summaries, and position papers.
- Provide advocacy advice to the Trust.
- Build alliances and coalitions with like-minded entities to advance the Trust's legislative interests.
- Maintain frequent contact with the Orange County legislative delegation and their staff to represent and advocate Trust policies and positions.
- Maintain direct and frequent contact with key members and staff of appropriate Senate and Assembly Committees to represent, educate and advocate Trust policies and positions
- Meet with and arrange meetings as appropriate for Trust Board members and staff with Executive Branch officials and departments including the California Department of Housing and Community Development, California Housing Finance Agency, and other relevant agencies.

4) Additional Responsibilities

- Undertake additional assignments as needed and mutually agreed to by both parties.

5) As-Needed Services

- From time to time the Trust may request Contractor to provide services on an as-needed basis. Such services shall be approved in writing by the Trust prior to commencement of such as-needed services by Contractor.

ATTACHMENT B

COMPENSATION/PAYMENT

- I. COMPENSATION:** This is an all-inclusive, firm, fixed fee Contract between Trust and Contractor for all other services provided in Attachment A, Scope of Work.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. Trust shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment in accordance with Trust Contract Terms and Conditions.

The annual Contract amount shall not exceed \$TBD, for a total cumulative Contract amount not to exceed \$TBD.

- II. FIRM RATE:** Contractor guarantees that rates quoted are equal to or less than rates quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no rate increases shall be passed along to the Trust during the term of this Contract not otherwise specified and provided for within this Contract.
- III. CONTRACTOR'S EXPENSE:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, online research services, travel, parking, and any and all “out of pocket” expenses incurred by the Contractor while on Trust sites during the performance of work and services under this Contract, unless otherwise specified. The Contractor shall be responsible for payment of all parking costs and expenses incurred at a Trust facility while performing work under this Contract, except to the extent the Trust facility has free parking available to the public and the Contractor makes appropriate use of this free parking. However, the Trust will not provide free parking to the Contractor in the County Civic Center.

Contractor shall bill for the actual number of hours worked. Contractor shall notify Trust in advance if any task requires an additional time commitment to complete. Trust approval is required before Contractor can work additional hours/time on the project.

- IV. PAYMENT TERMS:** Invoices are to be submitted in arrears, after services have been completed, to the bill to address specified under Section VI – Billing Instructions, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt of the invoice in a format acceptable to the Trust, and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services not previously invoiced. The Contractor shall reimburse the Trust for any monies paid to the Contractor for services not provided or when services do not meet the Contract requirements.

Payments made by the Trust shall not preclude the right of the Trust from thereafter disputing any services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

V. TAX ID NUMBER: The Contractor shall include its taxpayer ID number on all invoices submitted to the Trust for payment to ensure compliance with IRS requirements and to expedite payment processing.

VI. BILLING INSTRUCTIONS: The Contractor will provide an invoice on the Contractor's letterhead for services rendered. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1, above
3. Name of Trust agency/department
4. Agency/department address
5. Contract Number (TBD)
6. Federal Tax I.D. Number
7. Date of service
8. Service description
9. Total

Billing Address: All invoices shall be billed to:
OC Housing Finance Trust
Attn: Adam Eliason
1 League #62335
Irvine, CA 92602
aeliason@ochft.org

Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

VII. PAYMENT (ELECTRONIC FUNDS TRANSFER [EFT]): The Trust of Orange offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the Trust via an EFT Authorization Form. To request a form, please contact the agency/department Procurement Buyer listed in the Contract. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

ATTACHMENT C
STAFFING PLAN

I. Primary Staff/Key Personnel to perform Contract duties

Name	Classification

(Additional lines may be added if necessary)

II. Alternate Staff/Key Personnel (for use only if primary is not available)

Name	Classification

(Additional lines may be added if necessary)

Contractor understands that those individuals represented as assigned to the project must remain working on the project throughout the duration of the project unless otherwise requested or approved by the Trust. Substitution or addition of Contractor's Key Personnel in any given classification/title shall be allowed only with prior written approval of the Trust Project Manager. During the Term of this Contract, Contractor shall maintain a business office in Southern California.

The Contractor may reserve the right to involve other Contractor personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to Trust written approval. Trust reserves the right to have any of Contractor personnel removed from providing Services/Deliverables to Trust under this Contract. Trust is not required to provide any reason for the request for removal of any Contractor personnel.

III. SUB-CONTRACTOR(S)

In accordance with Article I, Assignment, listed below are sub-contractor(s) anticipated by Contractor to perform services specified in Attachment A. Substitution or addition of Contractor's sub-contractors in any given project function shall be allowed only with prior written approval of the Trust Project Manager.

Company Name & Address	Contact Name and Telephone Number	Project Function

(Additional lines may be added if necessary)

Attachment 3

Conflict of Interest Disclosure Statement

Disclosure Policy

It is the policy of the Trust to ensure that firms and individuals providing services to the Trust are not subject to organizational conflicts affecting their objectivity or their ability to provide impartial assistance or advice to the Trust. This form requires certain relationships to be disclosed to the Trust so that it may determine whether a potential organizational conflict exists and whether mitigation measures may be implemented so as to allow the firm or individual to perform services notwithstanding such potential conflict. Relationships with the following entities must be disclosed:

- 1) Any firm, individual, partnership, corporation, association, or other legal entity currently retained for services by a developer of affordable housing or service provider for families and individuals at risk of or experiencing homelessness.
- 2) Any firm currently retained or which may be retained for services by the County of Orange or any member city of the Trust or other public entity within Orange County, California (see list of member agencies below).

Disclosure

- 1) _____ Consultant **IS NOT** currently retained for services as defined in the Disclosure Policy above.
- 2) _____ Consultant **IS** currently retained for services as defined in the Disclosure Policy above.

a) Consultant is retained for services by the following member agencies of the Trust

- | | |
|--------------------------------|-----------------------------------|
| _____ County of Orange | _____ City of Lake Forest |
| _____ City of Aliso Viejo | _____ City of Laguna Beach |
| _____ City of Anaheim | _____ City of Laguna Hills |
| _____ City of Buena Park | _____ City of Laguna Niguel |
| _____ City of Costa Mesa | _____ City of La Habra |
| _____ City of Dana Point | _____ City of Mission Viejo |
| _____ City of Fountain Valley | _____ City of Newport Beach |
| _____ City of Fullerton | _____ City of Orange |
| _____ City of Garden Grove | _____ City of Placentia |
| _____ City of Huntington Beach | _____ City of San Juan Capistrano |

_____ City of Santa Ana
_____ City of Stanton

_____ City of Tustin
_____ City of Westminster

- b) Consultant is retained for services by the following other public agencies and public or private entities within Orange County, California. (List individually.)

- c) Please describe briefly those services potentially affected by this Disclosure:

Consultant is required to disclose to the Trust, in writing, any services relationship which may be entered into during the term of the Contract, which violates or appears to violate the intent of this Disclosure:

Consultant

Date

Authorized Representative

Title

Attachment 4

Compensation Proposal

Enter below the proposed price for full compensation to proposer for full and complete performance of the Services identified in the RFP Scope of Services. Prices shall include direct costs, indirect costs, profit, and any other costs associated with providing the services as described in this RFP.

Monthly Fee, including expenses: \$ _____

Proposer Name: _____

Address: _____

Phone Number: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attachment 5

Disclosures of Contributions

To be completed with the submission of any proposal.

Prime Firm's Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State

Zip Code

(____) _____

Phone Number

Board Member(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the 12 months preceding August 25, 2021 (see attached lists):

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amounts(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amounts(s): _____

If no contributions are noted above, I hereby certify that no contributions have been made by the Party identified above to any of the Trust's Board of Directors.

Date: _____

Signature of Party and/or Agent

List of Board Members

Board Chair Doug Chaffee
County of Orange Supervisor – 4th District

Board Vice-Chair Stephen Faessel
City of Anaheim – Council Member

Board Member Lisa Bartlett
County of Orange Supervisor – 5th District

Board Member Shari Freidenrich
County of Orange Treasurer-Tax Collector

Board Member Don Barnes
County of Orange Sheriff-Coroner

Board Member David Penaloza
City of Santa Ana – Council Member

Board Member Ed Sachs
City of Mission Viejo – Council Member

Board Member Jamey Federico
City of Dana Point – Council Member

Board Member Fred Jung
City of Fullerton – Council Member

Orange County | Housing Finance Trust

State Legislative Advocacy Services

Scope of Services

Consultant shall provide services and advice to the Trust's Board of Directors and staff, and be informed about the Trust's mission, finances, operations, and legislative history to objectively articulate potential impacts from pending legislation. Legislative and regulatory needs and the expected approach to accomplishing these services for the Trust may vary at times and the Consultant shall modify the strategy accordingly. As directed by the Trust, Consultant shall perform services to include, but not limited to, the following:

1) Administrative, Statutory, or Regulatory Efforts

Monitor the statutory and regulatory process and engage as necessary in the following issue areas:

- Joint Powers Authorities authorizing statutes.
- Modifications to Regional Housing Needs Assessment methodology and allotment.
- Modifications to state-wide affordable housing financing programs.
- Modifications to Local Housing Trust Fund Program implementing procedures or program extension.
- Budget surplus allocation for affordable housing, regional housing finance trusts, and the OCHFT.

2) State Legislative Platform

The state legislative platform seeks to identify issues or actions that may be pursued during a legislative session and outlines the Trust's statutory, regulatory, legislative, and administrative goals and will serve as the Board's policy guidelines throughout the relevant two-year legislative cycle. Consultant shall perform the following:

- Working with Trust staff, draft the Trust's state legislative platform focused on the next two-year legislative cycle for Trust Board approval.
- Review and update the state legislative platform as needed for the second year of the two-year legislative cycle.
- Create annual legislative watch list and update monthly to track legislation that could impact the mission and goals of the Trust.

- Make recommendations to the Trust Board and staff regarding legislation that may impact the Trust's authorizing statute, mission, finances, and operations.
- Provide bi-monthly oral reports to the Trust Board of Directors.
- Submit written legislative updates to include activities and status report for inclusion in the agenda packet for the bi-monthly Board of Directors meeting.

3) Liaison and Advocacy Activities

- Recommend appropriate meetings for Trust Board members and staff with key legislators and provide logistical support for Sacramento visits.
- Notify Trust staff of anticipated, newly introduced or amended state legislation, regulations, and administrative policies that could impact the Trust and provide a legislative analysis on how such actions may affect the interest of the Trust and a strategy to address those impacts.
- Working closely with Trust staff, develop positions and strategies to implement the Trust's legislative objectives.
- Attend hearings and other public sessions of interest on behalf of the Trust.
- Testify at legislative hearings on behalf of the Trust and/or prepare testimony for Trust Board members and staff as needed.
- Assist Trust staff with the preparation of written materials supporting the Trust's legislative goals, including, but not limited to letters, talking points, legislative language, legislative summaries, and position papers.
- Provide advocacy advice to the Trust.
- Build alliances and coalitions with like-minded entities to advance the Trust's legislative interests.
- Maintain frequent contact with the Orange County legislative delegation and their staff to represent and advocate Trust policies and positions.
- Maintain direct and frequent contact with key members and staff of appropriate Senate and Assembly Committees to represent, educate and advocate Trust policies and positions
- Meet with and arrange meetings as appropriate for Trust Board members and staff with Executive Branch officials and departments including the California Department of Housing and Community Development, California Housing Finance Agency, and other relevant agencies.

4) Additional Responsibilities

- Undertake additional assignments as needed and mutually agreed to by both parties.

5) As-Needed Services

- From time to time the Trust may request Consultant to provide services on an as-needed basis. Such services shall be approved in writing by the Trust prior to commencement of such as-needed services by Consultant.

Orange | Housing
County | Finance
Trust

MODEL CONTRACT

FOR

STATE LEGISLATIVE ADVOCACY SERVICES

MODEL/PROPOSED CONTRACT
BETWEEN
ORANGE COUNTY HOUSING FIANANCE TRUST
AND
[INSERT COMPANY NAME/TBD]
FOR
State Legislative Advocacy Services

This Contract for State Legislative Advocacy Services, hereinafter referred to as “Contract” is made and entered into as of the date fully executed by and between the Orange County Housing Finance Trust, a California public agency formed pursuant to California Government Code section 6500 et. seq. with a place of business at 1 League #62335, Irvine, CA 92602: hereinafter referred to as “Trust”, and [Insert Company Name /TBD] with a place of business at [Insert Address/TBD]; hereinafter referred to as “Contractor”, with Trust and Contractor sometimes referred to as “Party”, or collectively as “Parties”.

ATTACHMENTS

Attachment A – Scope of Work
Attachment B – Compensation/Payment
Attachment C – Staffing Plan

RECITALS

WHEREAS, Trust issued a Request for Proposal (RFP) for State Legislative Advocacy Services;
and

WHEREAS, the Contractor responded and represents that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

WHEREAS, the Trust Board of Directors has authorized the Trust Manager or their designee to enter into a Contract with Contractor for State Legislative Advocacy Services; and

NOW, THEREFORE, the parties mutually agree as follows;

ARTICLES

I. GENERAL TERMS AND CONDITIONS:

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. Entire Contract:** This Contract, including Attachments A, B, and C which are attached hereto and incorporated herein by this reference, contains the entire Contract between the parties with respect

to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on Trust unless authorized by Trust in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any Trust employee or agent, including but not limited to installers of software, shall not be valid or binding on Trust unless accepted in writing by Trust's Agent or designee.

- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on Trust unless authorized by Trust in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. Delivery:** Time of delivery of goods or services is of the essence in this Contract. Trust reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind Trust to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by Trust. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by Trust.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by Trust, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of Trust, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold Trust and its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by Trust by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold Trust and Trust Indemnitees harmless from any and all such claims and be responsible for payment

of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.

- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of Trust. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of Trust shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, Trust has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by Trust of its right to terminate the Contract shall relieve Trust of all further obligation.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of Trust. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through Trust.
- N. Performance:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to Trust's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of Trust required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.
- O. Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the Trust that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the Trust during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by Trust from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by Trust representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the Trust's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the Trust harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the Trust at its sole cost and expense with counsel approved by Board of Directors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the Trust was the insured.

If the Contractor fails to maintain insurance acceptable to the Trust for the full term of this Contract, the Trust may terminate this Contract.

Qualified Insurer:

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the Trust retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms:

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements:

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *Trust, its elected and appointed officials, officers, agents and employees* as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the Trust shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *Trust, its elected and appointed officials, officers, agents and employees* or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***

All insurance policies required by this Contract shall waive all rights of subrogation against the Trust, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify Trust in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to Trust. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the Trust may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interest's clause also known as a "separation of insured" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

Trust expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by Trust Risk Manager as appropriate to adequately protect Trust.

Trust shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with Trust incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and Trust shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. Changes:** Contractor shall make no changes in the work or perform any additional work without the Trust's specific written approval.
- Q. Change of Ownership/Name, Litigation Status, Conflicts with Trust Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the Trust agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the Trust.

Trust reserves the right to immediately terminate the Contract in the event the Trust determines that the assignee is not qualified or is otherwise unacceptable to the Trust for the provision of services under the Contract.

In addition, Contractor has the duty to notify the Trust in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the Trust in writing if the Contractor becomes a party to any litigation against the Trust, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and Trust that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the Trust any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the Trust of its status in these areas whenever requested by the Trust.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with Trust interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence Trust staff or elected officers in the performance of their duties.

- R. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to Trust within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- S. Confidentiality:** Contractor agrees to maintain the confidentiality of all Trust and Trust-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

Contractor's confidentiality obligations in this Contract and the obligations of this Section S shall survive the termination or expiration of the Contract and all related subordinate contracts.

- T. Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by Trust in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by Trust. Contractor acknowledges that Trust is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold Trust and Trust Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. Freight:** Prior to the Trust's express acceptance of delivery of products, Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.
- X. Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.
- Y. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by Trust, and hold harmless, the Trust, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the Trust or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by Trust, and hold Trust, its elected and appointed officials, officers, employees, agents and those special districts and agencies which Trust's Board of Directors acts as the governing Board ("Trust Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered

against Contractor and Trust by a court of competent jurisdiction because of the concurrent active negligence of Trust or Trust Indemnitees, Contractor and Trust agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

- AA. Audits/Inspections:** Contractor agrees to permit the Trust's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the Trust) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The Trust will provide reasonable notice of such an audit or inspection.

The Trust reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the Trust to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the Trust's project manager.

- BB. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to Trust; and inclusion of sufficient funding for the services hereunder in the budget approved by Trust's Board of Directors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, Trust may immediately terminate or modify this Contract without penalty.

- CC. Expenditure Limit:** The Contractor shall notify the Trust assigned Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The Trust will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

II. ADDITIONAL TERMS AND CONDITIONS:

- 1. Scope of Contract:** This Contract specifies the contractual terms and conditions by which the Trust will procure services from Contractor as set forth in the Scope of Work, attached hereto as Attachment A and incorporated by this reference.
- 2. Term of Contract:** This Contract shall commence on **TBD** or upon execution of all necessary signatures, whichever comes later, and continue for five calendar years from that date, unless otherwise terminated by Trust.
- 3. Compensation/Payment:** The Contractor agrees to accept the specified compensation, as set forth in Attachment B – Compensation/Payment, as full remuneration for performing all services and materials called for. The Contractor assumes responsibility for performance of all its duties and obligations hereunder.

5. **Usage:** No guarantee is given by the Trust to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the Trust, at rates/prices listed in the Contract, regardless of quantity requested.
6. **Adjustments-Scope of Work:** No adjustments made to the scope of work will be authorized or paid for without prior written approval of the Trust assigned Agent.
7. **Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.
8. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "Z" above, indemnify, defend, and hold Trust harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
9. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the Trust may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a. Terminate the Contract immediately, pursuant to Section K herein;
 - b. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - c. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - d. Offset against any monies billed by the Contractor but yet unpaid by the Trust those monies disallowed pursuant to the above.
10. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
11. **Confidentiality of Contractor's Records:** Contractor agrees to maintain the confidentiality of its records pursuant to all statutory laws relating to privacy and confidentiality as now in existence or as hereafter amended or changed. All records and information concerning any and all matters referred to the Contractor by the Trust shall be considered and kept confidential by the Contractor and the Contractor's officers, employees, agents, sub-contractors, and sub-tiers. Information obtained by the Contractor in the performance of this Contract shall be treated as strictly confidential and shall not be used by the Contractor for any purpose other than the performance of this Contract.

- 12. Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the Trust. The Trust assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the Trust are expressly stated in the Contract.
- 13. Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the Trust. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence Trust staff or elected officers from acting in the best interests of the Trust.
- 14. Conflict of Interest – Trust Personnel:** The Trust Board of Directors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any Trust employee for any purpose.
- 15. Contractor’s Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the Trust. Storage of records in another county will require written approval from the Trust assigned Agent.
- 16. Contractor Personnel – Reference Checks:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.
- 17. Covenant against Contingent Fees:** Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of getting business.

For breach or violation of this warranty, the Trust shall have the right to terminate this Contract in accordance with the termination clause and, in its sole discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee from the Contractor.

- 18. Data-Title to:** All materials, documents, data or information obtained from the Trust data files or any Trust medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the Trust. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the Trust. All materials, documents, data or information, including copies, must be returned to the Trust at the end of this Contract.

19. Debarment: Contractor certifies that neither contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency. Where contractor as the recipient of recipient of federal funds, is unable to certify to any of the statements in the certification, Contractor must include an explanation with their bid/proposal. Debarment, pending debarment, declared ineligibility or voluntary exclusion from participation by any Federal department or agency may result in the bid/proposal being deemed non-responsible.

20. Disputes – Contracts:

- A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the Trust's Project Manager, such matter shall be brought to the attention of the Trust Agent by way of the following process:
1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the Trust, on its own initiative, has already rendered such a final decision.
 2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the Trust is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the Trust shall be expressly identified as such, shall be in writing, and shall be signed by the Trust Agent or his designee. If the Trust fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the Trust's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

21. Gratuities: The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the Trust with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the Trust shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the Trust in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the Trust provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

22. News/Information Release: The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under

Project Manager shall be subject to approval by the Trust and shall not be changed without the written consent of the Trust's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The Trust's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager from providing services to the Trust under this Contract. The Trust's Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the Trust's Project Manager. The Trust's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager. The Trust is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

- 28. Project Manager – Trust:** The Trust shall appoint a project manager to act as liaison between the Trust and the Contractor during the term of this Contract. The Trust's project manager shall coordinate the activities of the Trust staff assigned to work with the Contractor.

The Trust's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The Trust's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice from the Trust's project manager. The Trust's project manager shall review and approve the appointment of the replacement for the Contractor's project manager and key personnel. Said approval shall not be unreasonably withheld. The Trust is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

- 29. Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.

- 30. Reports/Meetings:** The Trust's Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the Trust for the purpose of monitoring progress under this Contract.

- 31. Responsibility of the Contractor:** The Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all reports, documentation, and services furnished by the Contractor under this Contract. The Contractor shall perform such services as may be necessary to accomplish the work required to be performed under and in accordance with this Contract. The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in Attachment A, Scope of Work.

- 32. Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the Trust. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the Trust shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the Trust to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall

incorporate by reference the terms of this Contract. The Trust shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the Trust.

- 33. Substitutions:** The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior Trust written approval.
- 34. Termination – Default:** If Contractor is in default of any of its obligations under this Contract and has not commenced cure within ten days after receipt of a written notice of default from Trust and cured such default within the time specified in the notice, the Trust shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this Contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this Contract, including but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this Contract. Upon termination of the Contract with Contractor, the Trust may begin negotiations with a third-party contractor to provide services as specified in this Contract.
- 35. Termination – Orderly:** After receipt of a termination notice from the Trust, the Contractor shall submit to the Trust a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by the Trust upon written request of the Contractor. Upon termination, Trust agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
- 36. Title to Data:** All materials, documents, data or information obtained from the Trust data files or any Trust medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the Trust. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract. All materials, documents, data or information, including any copies, and all Trust Employees Workers' Compensation claim files, must be returned to the Trust at the end of this Contract.
- 37. Waivers-Contract:** The failure of the Trust in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.
- 38. Contract Award – Multiple:** The Trust reserves the right, at its sole discretion, to make multiple awards to bidders/proposers for services requested in this solicitation.

MODEL CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

CONTRACTOR*

** If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth.*

The first corporate officer signature must be one of the following 1) the Chairman of the Board 2) the President 3) any Vice President.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

Print Name *Title*

(DO NOT SIGN THIS TIME)

Signature *Date*

The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.

Print Name *Title*

(DO NOT SIGN THIS TIME)

Signature *Date*

Orange County Housing Finance Trust, a California public agency formed pursuant to California Government Code section 6500 et. seq.

Print Name *Title*

Signature *Date*

ATTACHMENT A
SCOPE OF WORK

I. BACKGROUND

The Orange County Housing Finance Trust is a Joint Powers Authority formed in March 2019 between the County of Orange and 23 of the 34 cities in Orange County, California. A complete list of member cities can be found in Attachment 1.

Creating of the Trust was authorized on September 11, 2018 with the enactment of Assembly Bill 448. AB 448 allowed the County of Orange and any of the cities within Orange County to mutually create a joint powers authority. The collaborative effort will allow the Orange County region to be more competitive and access additional funding sources available to address the homelessness and affordability crisis.

Following the passage of AB 448, the County worked with representatives from the Association of California Cities Orange County to form a collaborative working group, comprised of elected officials and staff from both the County and cities to establish the initial framework for the Trust. On March 12, 2019, the Orange County Board of Supervisors approved the OCHFT Joint Powers Authority Agreement, which formally brought the Trust into existence.

The mission of the Trust is to strengthen the communities in Orange County by financing the development of affordable housing for homeless and low-income individuals and families. The Trust is working to achieve this mission by contributing to the construction of 2,700 permanent supportive housing units and working to secure funding that will contribute to additional affordable housing units by 2025.

During its first two years of operation, the Trust has awarded over \$19.3 million to thirteen affordable housing communities throughout Orange County. The Trust expects to be able to award approximately \$10 million per year over the next three years for additional affordable communities in the County, and is looking for additional funding from private donations and other government sources.

II. TRUST RESPONSIBILITIES

1. Trust will assign a Trust Project Manager and coordinate work closely with Contractor.
2. Trust Project Manager will monitor and track project status to ensure it is progressing within the project timeframe.
3. Trust Project Manager will review and approve all work, materials, reports, and deliverables required in this Contract.

III. CONTRACTOR RESPONSIBILITIES

Contractor shall provide services and advice to the Trust's Board of Directors and staff, and be informed about the Trust's mission, finances, operations, and legislative history to objectively articulate potential impacts from pending legislation. Legislative and regulatory needs and the expected approach to accomplishing these services for the Trust may vary at times and the Contractor shall modify the

strategy accordingly. As directed by the Trust, Contractor shall perform services to include, but not limited to, the following:

1) Administrative, Statutory, or Regulatory Efforts

Monitor the statutory and regulatory process and engage as necessary in the following issue areas:

- Joint Powers Authorities authorizing statutes.
- Modifications to Regional Housing Needs Assessment methodology and allotment.
- Modifications to state-wide affordable housing financing programs.
- Modifications to Local Housing Trust Fund Program implementing procedures or program extension.
- Budget surplus allocation for affordable housing, regional housing finance trusts, and the OCHFT.

2) State Legislative Platform

The state legislative platform seeks to identify issues or actions that may be pursued during a legislative session and outlines the Trust's statutory, regulatory, legislative, and administrative goals and will serve as the Board's policy guidelines throughout the relevant two-year legislative cycle. Contractor shall perform the following:

- Working with Trust staff, draft the Trust's state legislative platform focused on the next two-year legislative cycle for Trust Board approval.
- Review and update the state legislative platform as needed for the second year of the two-year legislative cycle.
- Create annual legislative watch list and update monthly to track legislation that could impact the mission and goals of the Trust.
- Make recommendations to the Trust Board and staff regarding legislation that may impact the Trust's authorizing statute, mission, finances, and operations.
- Provide bi-monthly oral reports to the Trust Board of Directors.
- Submit written legislative updates to include activities and status report for inclusion in the agenda packet for the bi-monthly Board of Directors meeting.

3) Liaison and Advocacy Activities

- Recommend appropriate meetings for Trust Board members and staff with key legislators and provide logistical support for Sacramento visits.
- Notify Trust staff of anticipated, newly introduced or amended state legislation, regulations, and administrative policies that could impact the Trust and provide a legislative analysis on how such actions may affect the interest of the Trust and a strategy to address those impacts.
- Working closely with Trust staff, develop positions and strategies to implement the Trust's legislative objectives.
- Attend hearings and other public sessions of interest on behalf of the Trust.
- Testify at legislative hearings on behalf of the Trust and/or prepare testimony for Trust Board members and staff as needed.
- Assist Trust staff with the preparation of written materials supporting the Trust's legislative goals, including, but not limited to letters, talking points, legislative language, legislative summaries, and position papers.

- Provide advocacy advice to the Trust.
- Build alliances and coalitions with like-minded entities to advance the Trust's legislative interests.
- Maintain frequent contact with the Orange County legislative delegation and their staff to represent and advocate Trust policies and positions.
- Maintain direct and frequent contact with key members and staff of appropriate Senate and Assembly Committees to represent, educate and advocate Trust policies and positions
- Meet with and arrange meetings as appropriate for Trust Board members and staff with Executive Branch officials and departments including the California Department of Housing and Community Development, California Housing Finance Agency, and other relevant agencies.

4) Additional Responsibilities

- Undertake additional assignments as needed and mutually agreed to by both parties.

5) As-Needed Services

- From time to time the Trust may request Contractor to provide services on an as-needed basis. Such services shall be approved in writing by the Trust prior to commencement of such as-needed services by Contractor.

ATTACHMENT B
COMPENSATION/PAYMENT

- I. COMPENSATION:** This is an all-inclusive, firm, fixed fee Contract between Trust and Contractor for all other services provided in Attachment A, Scope of Work.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. Trust shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment in accordance with Trust Contract Terms and Conditions.

The annual Contract amount shall not exceed \$TBD, for a total cumulative Contract amount not to exceed \$TBD.

- II. FIRM RATE:** Contractor guarantees that rates quoted are equal to or less than rates quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no rate increases shall be passed along to the Trust during the term of this Contract not otherwise specified and provided for within this Contract.

- III. CONTRACTOR'S EXPENSE:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, online research services, travel, parking, and any and all "out of pocket" expenses incurred by the Contractor while on Trust sites during the performance of work and services under this Contract, unless otherwise specified. The Contractor shall be responsible for payment of all parking costs and expenses incurred at a Trust facility while performing work under this Contract, except to the extent the Trust facility has free parking available to the public and the Contractor makes appropriate use of this free parking. However, the Trust will not provide free parking to the Contractor in the County Civic Center.

Contractor shall bill for the actual number of hours worked. Contractor shall notify Trust in advance if any task requires an additional time commitment to complete. Trust approval is required before Contractor can work additional hours/time on the project.

- IV. PAYMENT TERMS:** Invoices are to be submitted in arrears, after services have been completed, to the bill to address specified under Section VI – Billing Instructions, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt of the invoice in a format acceptable to the Trust, and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services not previously invoiced. The Contractor shall reimburse the Trust for any monies paid to the Contractor for services not provided or when services do not meet the Contract requirements.

Payments made by the Trust shall not preclude the right of the Trust from thereafter disputing any services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

V. TAX ID NUMBER: The Contractor shall include its taxpayer ID number on all invoices submitted to the Trust for payment to ensure compliance with IRS requirements and to expedite payment processing.

VI. BILLING INSTRUCTIONS: The Contractor will provide an invoice on the Contractor's letterhead for services rendered. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1, above
3. Name of Trust agency/department
4. Agency/department address
5. Contract Number (TBD)
6. Federal Tax I.D. Number
7. Date of service
8. Service description
9. Total

Billing Address: All invoices shall be billed to:
OC Housing Finance Trust
Attn: Adam Eliason
1 League #62335
Irvine, CA 92602
aeliason@ochft.org

Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

VII. PAYMENT (ELECTRONIC FUNDS TRANSFER [EFT]): The Trust of Orange offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the Trust via an EFT Authorization Form. To request a form, please contact the agency/department Procurement Buyer listed in the Contract. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

ATTACHMENT C
STAFFING PLAN

I. Primary Staff/Key Personnel to perform Contract duties

Name	Classification

(Additional lines may be added if necessary)

II. Alternate Staff/Key Personnel (for use only if primary is not available)

Name	Classification

(Additional lines may be added if necessary)

Contractor understands that those individuals represented as assigned to the project must remain working on the project throughout the duration of the project unless otherwise requested or approved by the Trust. Substitution or addition of Contractor’s Key Personnel in any given classification/title shall be allowed only with prior written approval of the Trust Project Manager. During the Term of this Contract, Contractor shall maintain a business office in Southern California.

The Contractor may reserve the right to involve other Contractor personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to Trust written approval. Trust reserves the right to have any of Contractor personnel removed from providing Services/Deliverables to Trust under this Contract. Trust is not required to provide any reason for the request for removal of any Contractor personnel.

III. SUB-CONTRACTOR(S)

In accordance with Article I, Assignment, listed below are sub-contractor(s) anticipated by Contractor to perform services specified in Attachment A. Substitution or addition of Contractor’s sub-contractors in any given project function shall be allowed only with prior written approval of the Trust Project Manager.

Company Name & Address	Contact Name and Telephone Number	Project Function

(Additional lines may be added if necessary)

Agenda Item 3

Agreement with Orange County
Community Foundation

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: November 17, 2021

SUBJECT: Approve operating agreement between the Orange County Housing Finance Trust (Trust) and Orange County Community Foundation (OCCF) to establish a donor advised fund; authorize the Trust Manager to execute the operating agreement; and setup form and authorize trust manager to establish a link on the trust website for direct donations to the established OCCF donor advised fund to benefit the trust.



Adam B. Eliason, Manager

RECOMMENDED ACTIONS:

1. APPROVE OPERATING AGREEMENT BETWEEN THE ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) AND ORANGE COUNTY COMMUNITY FOUNDATION (OCCF) TO ESTABLISH A DONOR ADVISED FUND; AUTHORIZE THE TRUST MANAGER TO EXECUTE THE OPERATING AGREEMENT AND SETUP FORM
2. AUTHORIZE TRUST MANAGER TO ESTABLISH A LINK ON THE TRUST WEBSITE FOR DIRECT DONATIONS TO THE ESTABLISHED OCCF DONOR ADVISED FUND TO BENEFIT THE TRUST.

BACKGROUND:

Chapter 3 of the Strategic Plan introduces a means by which individuals/companies may wish to donate to the Trust. There are two options for this to occur. The Trust could create a separate 501(c)(3) charity, with a Board consisting of the Trust Board Directors, and assume all associated administrative/accounting and reporting requirements for the IRS or use an existing 501(c)(3) local foundation organization as a pass-through to fund these projects directly.

Since it is likely that initial donations would most likely involve only a few contributions from companies or individuals, Trust staff recommends the establishment of a charitable trust fund with an existing nonprofit local foundation.

Using an existing nonprofit provides significant cost and operational advantages that would save the Trust between \$30,000-\$50,000 annually. In addition, the Trust would avoid the need to set up and staff either a separate Board of Directors or simply have the Directors to the Trust act in this capacity, as required by the IRS, in addition to employing the services of an accountant to prepare the annual filing of tax returns, audits and Form 990's.

The costs of using a local foundation for contributions intended for Trust projects would be significantly less (primarily staff time). These costs would be associated with establishing a donor advised fund and/or account with a foundation and the required percentage of assets that the agent/foundation would charge for assets under management, which would be paid not by the Trust but from the donor contribution (See Attachment B for fee schedule). Under this scenario, charitable contributions, while intended for Trust projects, would not be permitted to pass through the Trust. Instead, they would go directly to the local foundation and remain with the 501(c)(3). The Board of Directors would be responsible for identifying and approving, via resolution, those 501(c)(3) project sponsors which would be granted the funds. The foundation would direct these funds to the recommended entities. However, funds would not be transferred to any project without Trust Board recommendation and approval.

Trust staff has identified OCCF as the local foundation best suited to meet the Trust's needs. OCCF is a significant local charity, with \$240 million in assets, that also funds homeless initiatives, including Trust stakeholders such as United Way of Orange County. OCCF charges an annual fee under a sliding scale starting at 2% and lower at various intervals up to \$10 million. In general practice, the percentage is charged for the average of the amount of funds in the account each year. For example, if a donation were made on behalf of the Trust for \$1 million, a 2% fee would be assessed equaling \$20,000, which would be paid out of the donation amount. Donations totaling more than \$1 million have a reduced fee on a sliding scale as indicated in Attachment B. According to Attachment B, the support fee covers the cost of administration and provides the necessary resources to operate the fund and ensure fiscal responsibility and donor education, research, and other activities. Trust projects funded through OCCF could only be distributed to non-profit affordable housing providers and follow established OCCF donor-advised fund policies and procedures found in Attachment C. The Agreement found in Attachment A and the OCCF Donor-Advised fund policies and procedures provide the terms and conditions of any and all donations. However, the fund will not be formally established and active until there is a minimum \$25,000 in the fund. This only means that until the fund reaches the \$25,000 threshold, grants may not be made. However, OCCF will accept any donations to the established fund for the Trust's benefit that are under \$25,000.

The Trust Manager intends to promote the Trust accomplishments and activities at various public meetings, conferences, and events. When the occasion presents itself, the discussion

may include philanthropy and donating to the Trust. To facilitate donations, the Trust Manager proposes to add a link on the Trust website allowing a donation to be made on behalf of the Trust.

CONCLUSION

It is recommended that the Trust initially establish a donor-advised fund with the OCCF since there is no cost for set-up and the costs/fees are only incurred once a donation is initiated and paid by the donated funds. Furthermore, the Trust doesn't have to incur the costs to setup a 501(c)(3) and all the accounting, auditing, administrative costs and reporting required. The Trust always has the option in the future to establish their own 501(c)(3) when/if donations and the associated costs/fees make economic sense.

Staff recommends that the Board authorize the Trust Chair and Manager to execute an operating agreement (See Attachment A) and setup form (See Attachment B) between the Trust and OCCF and approve the addition of a donate link on the Trust's website

ATTACHMENT: Attachment A – Donor-Advised Non-Endowed Fund Agreement

 Attachment B – Setup Form

 Attachment C – Donor-Advised Fund Policies and Procedures



Orange County Housing Finance Trust Charitable Fund
A Donor-Advised Non-Endowed Fund
of the Orange County Community Foundation

This agreement, made this ____ day of September 2021, between **Orange County Housing Finance Trust** (hereinafter referred to as the “Founder or OCHFT”), and the Orange County Community Foundation (hereinafter referred to as the “Community Foundation”), a California nonprofit corporation, is as follows:

Fund Name

The Founder is creating a Donor-Advised Non-Endowed Fund known as the “**Orange County Housing Finance Trust Charitable Fund**” (hereinafter referred to as the “Fund”).

Contributions to the Fund

The Founder hereby assigns, conveys, transfers and delivers property acceptable to the Community Foundation for charitable purposes. The Founder or any other contributor may add to the Fund at any time. All money and property transferred to the fund is an irrevocable gift to the Community Foundation. Orange County Community Foundation has exclusive legal control over all donated funds. Contributions to the fund shall be subject to the terms and conditions set forth herein.

Fund Management

The Community Foundation will hold, manage, invest and reinvest the Fund; will collect the earnings; and will disburse the assets of the fund for charitable uses and purposes, in accordance with the policies of the Community Foundation.

Advisor to the Fund

An Advisory Committee consisting of the OCHFT **Trust Manager (currently Adam Eliason)** and current Board of Directors will identify the grants to be made from the Fund. The Trust Manager shall notify the Community Foundation of approved recommendations via OCHFT Board Resolution, accompanied by the signature of Board Chair. Recommendations will be in accordance with the Donor-Advised Fund Policies and Procedures of the Community Foundation. Donor-advised fund policies may be amended from time to time by the Board of Governors, the terms of which are incorporated herein by reference. All recommendations may be accepted or rejected, in whole or part, by the Board of Governors in its sole discretion. As required by Internal Revenue Service regulations, the Board of Governors shall have the variance power as set forth in tax regulations 1.170A-9(f)(11)(V)(B), (C), and (D), and must retain final authority and responsibility for determining distributions from the Fund.

Orange County Housing Finance Trust Charitable Fund

Page 2 of 2

Fund Succession

If no advisors are willing or able to act and there are no established philanthropic guidelines, then the Founder requests that the remaining balance of the fund be granted to support affordable housing in Orange County.

Foundation Support Fee

It is understood that the Fund shall share a fair portion of the administrative costs and expenses of the Community Foundation, which shall be determined in accordance with the then-current Community Foundation fee schedule, as applicable to funds of this type.

I understand that this fund shall operate in accordance with the Orange County Community Foundation Donor Advised Fund Policy and Procedures, which I have received.

This agreement has been executed as of the date above:

Orange County Community Foundation

Orange County Housing Finance Trust

By: _____
Tammy Tumbling, EVP and COO

By: _____
Adam B. Eliason, Trust Manager

ESTABLISHING A DONOR ADVISED FUND

Please complete the following information to set up your fund at OCCF.

FUND NAME

A fund may carry any name including a family name (e.g. Jackson Family Fund) or another name that has meaning to you (e.g. Giving Heart Fund).

I / we would like to name our fund the " _____ " Fund.

FUND FOUNDERS

Individuals establishing a fund usually name themselves as founders. Founders establish the parameters of the fund. They provide the name for the fund, the advisors for the fund, fund successors and may make changes to these parameters.

This fund will include the following founders:

	Founder 1	Founder 2
Full Name		
Address		
Primary Phone		
Email		
Business Name		
Business Address		
Business Phone		
Select a Primary Contact for the Fund	<input type="checkbox"/>	<input type="checkbox"/>

FUND ADVISORS

Fund advisors are solely responsible for making grant distribution recommendations and decisions. Fund founder(s) may be assigned an advisor role.

- Will founder 1 be advisor on the fund? Yes No
- Will founder 2 be advisor on the fund? Yes No N/A

If you wish to add additional advisors to the fund, please provide the following information:

	Advisor 1	Advisor 2
Full Name		
Address		
Primary Phone		
Email		

If there is more than one fund advisor for your fund, there are two options for how grants can be recommended.

Please choose your preference below:

- Single Advisor:** Any approved fund advisor can submit grant recommendations acting on behalf of both/all advisors. This option is most common in order to streamline the grant approval process.
- All Advisors:** All fund advisors must formally confirm their agreement on each grant recommendation before OCCF is able to approve the grant.

FUND SUCCESSORS

In the case all fund advisors resign or pass away, a successor advisor(s) can make granting recommendations from the fund. If no successor is identified, OCCF will administer the fund according to the current or established fund provisions. Fund Founders can create fund guidelines for OCCF to administer for their fund in perpetuity.

Do you wish to name successors advisor(s) to the fund? Yes No

If yes, please provide the following information:

	Successor 1	Successor 2
Full Name		
Address		
Primary Phone		
Email		

If there is more than one successor advisor for your fund, there are two options for how grants can be recommended.

Please choose your preference below:

- Single Successor:** Any approved successor advisor can submit grant recommendations acting on behalf of both/all advisors. This option streamlines the grant approval process.
- All Successors:** All successor advisors must formally confirm their agreement on each grant recommendation before OCCF is able to approve the grant.

FUND TYPE

Please select the type of Donor Advised Fund you wish to establish.

Please select only one.

_____ **Endowed:** A permanent fund with the principal remaining intact and earnings accruing to the fund on a pro rata basis. The annual amount available for granting is based on a 16 quarter rolling average as approved annually by the Board of Governors (currently a 4.50% annual distribution).

_____ **Non-Endowed:** A flexible fund in which all income and principal is available for granting.

FUND INVESTMENT

Fund founders may select how they want fund assets to be invested. Please document your selections in the chart. Selections must total 100% among any of the following options.

Investment Option	Endowed	Non-Endowed
Short-Term Cash Pool	Not Applicable	
Long-Term Investment Pool		
Environmental Social Governance (ESG) Investment Pool*		
Total	100%	100%

Short-Term Cash Pool

Designated for funds with short-term purpose or goals. The fund includes investments in money market, commercial paper, corporate securities, U.S. Treasuries, etc. Annual investment fees are approximately 8 basis points.

Long-Term Investment Pool

Invested to provide safety through diversification in a portfolio of common stocks, bonds, mutual funds, alternative investments, and cash equivalents. Annual investment fees range from 85-95 basis points.

Environmental Social Governance (ESG) Investment Pool*

Invested with similar risk/return objectives as the Long-Term Investment Pool in a portfolio of common stocks, bonds, mutual funds, private equity funds, and cash equivalents. The pool incorporates Environmental, Social, and Governance criteria in decision making. Annual investment fees are approximately 76 basis points.

*\$50,000 minimum contribution to participate in the ESG pool.

ACKNOWLEDGEMENT AND SIGNATURE

We are committed to protecting your privacy and treat this information as confidential and, unless required by law, will never disclose your information to third parties without your permission.

Once this form is received, we will draft the fund agreement and return it for your signature.

Founder 1 Signature _____ **Date** _____

Founder 2 Signature _____ **Date** _____

QUESTIONS?

Please contact Linda Tinoco at 949.553.4202 ext. 255 or ltinoco@oc-cf.org

SUPPORT FEES AND MINIMUMS

The Community Foundation assesses annual support fees to cover the cost of administration and to continue our important charitable mission in our community. These fees provide the necessary resources to operate efficiently and effectively, ensuring fiscal responsibility in grant due diligence, donor education, research and other activities. Fees are assessed quarterly based on the highest fund balance.

Donor Advised Funds (\$25,000 minimum)

Support Fees

Non-Endowed Funds

2.00% on the first \$1 M
1.00% on amounts from \$1- 5 M
1.00% flat on funds over \$5 M
0.75% flat on funds over \$7.5 M
0.50% flat on funds over \$10 M

Endowed Funds, including Designated Agency Funds

1.00% on the first \$1 M
0.75% on amounts from \$1- 5 M
0.75% flat on funds over \$5 M
0.50% flat on funds over \$7.5 M

Endowment Funds

Support Fees

Field of Interest Endowed Funds (\$250,000 minimum)

1.50% on the first \$1 M
1.00% on amounts from \$1- 5 M
1.00% flat on funds over \$5 M

Agency Endowed Funds (\$25,000 minimum)

0.75% flat on funds over \$7.5 M
0.75% on the first \$5 M
0.50% flat on funds over \$5 M

Scholarship Funds (\$25,000 minimum)

Support Fees

Aligned: Scholarship awards are aligned with OCCF's existing scholarship programs

Non-Endowed Funds

3.00% on the first \$1 M
2.00% on amounts from \$1- 5 M
1.00% on amounts over \$5 M

Endowed Funds

2.00% on the first \$1 M
1.50% on amounts from \$1 - 5 M
1.00% on amounts over \$5 M

Custom: Scholarship awards reflect customized criteria created by donor in partnership with OCCF. Fees vary depending on criteria and administration. Contact Cathleen Otero at cotero@oc-cf.org for information.

Adopted 12/09/2015
Updated 9/23/2020

Donor-Advised funds Policies and Guidelines

The intent in establishing these policies and procedures is to provide guidance as to the acceptance, establishment, operation, and succession of Donor-Advised funds at the Orange County Community Foundation (the “Foundation”). Donor-advised funds are established with a minimum of \$25,000 by an individual, family, corporation, or agency (the “Founder”) who wishes to create a named fund, serve as an advisor and make requests for distributions to charitable organizations. The Foundation also offers a variety of other funds including Scholarship Funds, Field of Interest Funds, Agency Endowment Funds and Designated Agency Funds. Guidelines for fund minimums and other criteria are found in the attached Exhibit A.

Establishment of Donor-Advised Funds

Requirements to Open a Fund: To open a donor-advised fund, the Founder must sign a fund agreement with the Foundation establishing the fund and setting the parameters of the Fund. Once the initial gift has been received, the Fund is considered activated.

Fund Agreement: The Fund Agreement is signed by OCCF’s President or Vice President of Philanthropic Planning and External Relations and the Founder of the Donor-advised fund (the “Fund”). It establishes who makes recommendations for grants from the Fund (“Advisors”), whether there shall be any successor advisors of the fund, and ensures that the Founder is aware of and understands OCCF’s Donor-advised fund Policies and Procedures. Changes to the fund name, fund advisors and philanthropic guidelines can be made at any time by the Founder, subject to acceptance by the Foundation.

Types of Funds: Funds may be established as either Non-Endowed, meaning that both the principal and any earnings of the fund may be distributed, or Endowed, meaning that distributions can be made based on an annual payout approved by OCCF’s Board (typically 5% based on a 16 quarter rolling balance).

Contributions to a Fund

The Community Foundation is able to receive a wide variety of assets into your Donor-advised fund. Some of these assets, like publicly-traded securities, can be easily transferred to your Donor-advised fund directly from your brokerage account. Other assets, such as LLC interests, family limited partnerships, S-Corp stock, and real estate interests require additional consideration and planning.

Whatever you choose to contribute, the Orange County Community Foundation can help fulfill both your financial and philanthropic objectives. All money and property transferred to your Fund is considered an irrevocable gift to a tax-exempt public charity, making your contributions

tax deductible to the full extent allowable by law. Contributions can be made by you as the Founder or any other contributor who may wish to add to the fund.

If you wish to include one or more charities in your estate plan, consider directing an estate gift to your fund at the Community Foundation. There is no cost to establish your Fund or to revise your Fund objectives should your charitable goals change. The easiest way to include the Community Foundation in your estate or legacy plan is through a bequest. However, you may also consider gifting other assets such as your retirement funds or life insurance. Careful consideration of what and when to give can help facilitate the maximum transfer to your heirs and your favorite charities.

Variance Power

As required by law, all assets contributed to a fund are irrevocable gifts to OCCF and legal control and responsibility for the fund rests with OCCF as set forth in its bylaws. OCCF has the authority to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to a specified organization if, in the sole judgment of OCCF's Board of Governors, such restriction or condition becomes unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community served. All funds accepted by OCCF are subject to this variance power.

Investment of Assets

The Community Foundation has the sole responsibility and authority for the investment of the assets of its component funds, however, you do have several investment options to consider for non endowed funds based on your anticipated needs for granting to charities.

Some donors elect to keep a portion of their fund's assets in our short-term cash pool for immediate granting. Many fund advisors choose to participate in our long-term investment pool with all or a portion of their fund's assets. The investment pool option is designed for individuals who desire to generate returns to support their longer term grant-making objectives. Our investment pool is a balanced portfolio designed to maximize total returns while minimizing down-side risk.

The investment of OCCF's assets are prudently guided by an Investment Committee with the support of an independent investment consultant, Cambridge Associates, LLC. A detailed report on our investment allocations, specific investment managers and historical returns is available upon your request.

Grantable Amount Process for Endowment Funds

Each year in accordance with the Foundation's Board-approved payout policy, endowed funds are allocated an annual "grantable amount" which is recorded in a separate grantable sub-account within the endowed fund. Funds allocated into the grantable account are immediately available for granting and will remain in the account until recommended by the fund advisor for granting. Each annual grantable amount, as well as undisbursed grantable amounts from prior years, will be retained in the grantable account and be available to the fund advisor for granting

in current or future periods as recommended by the fund advisor to OCCF's Board. The grantable amount remains invested in OCCF's long-term investment pool unless otherwise requested by the donor based on their anticipated needs for granting.

Fees and Statements

The Orange County Community Foundation is committed to providing exceptional services to its donors. There is no initial charge to set up a fund at the Orange County Community Foundation. Our Board of Governors has established a Foundation Support Fee for all funds which supports the operations of the Orange County Community Foundation. Foundation Support Fees help to cover the costs associated with administering your fund, and also allow the Community Foundation to make important contributions to our community through our efforts to strengthen support for the local nonprofit sector.

Once a Fund is established, the Foundation Support Fee is calculated as a percentage of the Fund's balance and is assessed on a quarterly basis. The Foundation Support Fee varies depending on fund type and size and is based on the highest balance of the fund during the previous 12-month period. A schedule of current Foundation Support Fees is available upon request. Quarterly statements will be provided to Fund advisors and will include all quarterly contributions to the Fund, investment earnings, distributions from the Fund, and applicable investment and Foundation Support fees.

Distributions from a Donor-advised fund

Grant Recommendations: Donor Advisors may make grant recommendations of \$250 or more to any eligible public charity by submitting a charitable distribution recommendation form via mail, fax, on-line through OCCF's website, or by communicating with their staff liaison at OCCF.

- The Foundation staff will do all requisite due diligence of prospective grant recipients to ensure that they are organized and operated for charitable purposes typically as described in Section 170(b)(1)(A) of the Internal Revenue Code.
- Qualified charities generally include those described in Section 501(c)(3) of the Internal Revenue Code that are not also private foundations, and certain governmental organizations. These include charitable, religious, and educational organizations, as well as school districts, public libraries and other units of government.
- Examples of organizations not eligible for contributions from a Donor-advised fund include fraternal orders, organizations whose primary purpose is lobbying, cemetery associations and funds set up to provide emergency relief to specific individuals or families. If an advisor is concerned about a particular recommendation, the Foundation can pre-screen an organization for eligibility.
- Prospective grant recipients must operate without illegal discrimination on the basis of race, religion, gender, sexual orientation, age, national origin or disability.

- Approved grants are processed weekly and checks are mailed directly to the recipient charity and are accompanied by an award letter outlining the grant details including how you would like to be recognized and any specific purpose of the grant. Grant checks cannot be sent directly to the fund advisor.

Grant Recognition: OCCF staff works closely with Fund Advisors to ensure that they receive full recognition for their gifts. Unless other arrangements have been made (e.g. anonymity requested), the grant letter will indicate that the contribution is from “The XYZ Fund of Orange County Community Foundation” and that it has been given upon the recommendation of the named advisor. The recipient organization is encouraged to recognize the gift to the advisor. If the organization sends acknowledgement for the gift to OCCF, we will forward to the Fund Advisor.

Grants to International Organizations: Donor Advisors may make grant recommendations to international organizations. Additional due diligence is required for international granting, so please consult with your OCCF staff liaison if you wish to include grants to international organizations as part of your charitable giving.

Grant Restrictions and Prohibitions (IRS regulations)

While making grants through an advised fund is a flexible process, there are a few things your donor-advised fund cannot support. Grants from your fund cannot be awarded to a named individual; for non-charitable purposes; for political contributions or to support political campaign activities; or for any purpose that would provide benefits, goods or services to a donor of the fund, the fund’s advisor(s), other related parties or businesses they control. A fund advisor is subject to IRS penalties if the fund’s donor(s), advisor(s) or other related parties receive benefits, goods or services in connection with a grant recommendation.

Events and Memberships: To comply with IRS regulations, grants from a Donor-advised fund cannot result in the donor, advisors or any related parties receiving an exchange of goods or services or any personal or material benefit that is not provided to the general public (for example newsletters). Prohibited benefits include tickets to events, memberships, meals, preferred parking, preferred seating, discounted merchandise or other preferential treatment from a recipient organization.

Pledges: IRS regulations allow the Community Foundation to support a pledge commitment from a Donor-advised fund under the following conditions: (1) the Community Foundation receives the pledge payment recommendation from the fund advisor; (2) the fund advisor is not getting a more than incidental benefit in connection with the pledge; (3) fund advisor is not claiming a deduction for the payment from their Donor-advised fund; (4) the payment from the donor’s advised fund can only reference the contribution to the organization and may not reference the existence of the pledge.

The IRS prohibits grants to individuals such as emergency hardship grants, disaster relief grants, and scholarships through Donor-advised funds. OCCF can help you establish the appropriate

type of Fund to make these types of awards. Please consult our VP of Donor Relations and Programs, Cathleen Otero, for guidance if you wish to include individual grants and scholarships as part of your charitable giving.

Payments and Expenses: Donors, advisors or any related parties may not receive grants, loans, compensation or similar payments (**including expense reimbursements**) from Donor-advised funds.

Fundraising

Donors, advisors or any related parties may not conduct fundraising events (i.e. golf tournaments, auctions, raffles, dinners) through their fund. OCCF staff can provide guidance and information on other related organizations that support events on behalf of your fund.

Fund Activity

A fund is considered active when there is regular communication between the fund advisors and OCCF regarding the existence and purpose of the fund, and that granting activity from the fund occurs in alignment with the fund's purpose and objectives. Examples of fund activity include, but are not limited to, the following:

- **Development of a Giving Plan:** A plan may include the philanthropic goals and a giving strategy for the fund, with the timing of grants determined in the long-term plan. A plan may include waiting a number of years before making grants as the fund advisor may want to build the fund to a certain size, or the timing may be determined by specific life events (i.e. retirement, health, travel).
- **Granting Activity:** Grants are made in a timely manner in alignment with the purpose and objectives of the fund, generally at least annually though timing can vary based on the purposes of the fund.
- **Charitable Legacy:** Fund advisors may build a fund over time with the intent of leaving a charitable legacy for their children.
- **Fund illiquidity:** A fund is considered active if the donated assets are illiquid for a limited period of time.
- **Significant Life Events:** A fund is considered active if the fund advisor experiences a significant life event that diverts time and attention needed to focus on philanthropy.

Fund Inactivity

A fund can become inactive if a fund advisor is no longer willing or able to advise on distributions from the fund, and no philanthropic guidelines exist or successor advisors are named. When this occurs OCCF's Board of Governors will advise on distributions from the fund.

A fund can also become inactive if no gifts are received and no grants are recommended in a three year period. The advisors may be notified by OCCF regarding the inactivity and given a minimum of 120 days to respond regarding their plans for the fund. Failure to respond within the designated time frame may result in OCCF declaring the fund to be inactive. If there are no established philanthropic guidelines, the use of the remaining balance of the inactive fund will be determined by OCCF's Board of Governors.

Fund Closure

A fund advisor may recommend closing a non-endowed fund by granting up to 100 percent of the fund balance to a qualified charitable organization, including any of OCCF's funds (e.g., field

of interest funds, endowment funds, operating funds). Such recommendations must be received in writing and, if approved, funds will be disbursed in accordance with OCCF's current policies, applicable laws and regulations.

Marriage Dissolution

The following procedures will be implemented when a legal action for divorce, separation or annulment is pending between the husband and wife who have jointly established a Donor Advised Fund and/or the husband and wife serve as the only advisors to the fund.

I. Should neither party contact the Community Foundation and advise of the action, and as far as the Community Foundation remains unaware, no action will be taken.

II. Upon receiving notice of such action, the Community Foundation will initiate the following:

A. Should either party contact OCCF and advise of the divorce, OCCF will suspend processing any grant distribution recommendation for such Fund(s) unless and until the husband and wife both agree in writing to approve the grant distribution recommendation, or suspend processing any grant distribution recommendations for such Fund(s) unless and until the husband and wife have jointly agreed in writing to an alternative procedure, acceptable to the Community Foundation, to provide for the future administration of such Fund(s).

B. Subject to the approval of the Community Foundation, the husband and wife may jointly authorize the Community Foundation to bifurcate any Fund(s), designating the husband or other successor advisors to serve as the advisory committee to one of the successor Fund(s) and designating the wife or other successors advisor to serve as the advisory committee to the other successor Fund(s) created as a result of bifurcation.

Funds to be bifurcated need to have at least the minimum required to set up two separate funds (\$50,000). If the fund balance is at least \$50,000 separate individual funds will be established with an equal amount allocated to each fund.

C. If fund balance is less than \$50,000, the husband and wife may jointly grant the remaining funds to another existing fund or any other charitable entities of their mutual choice.

D. In the event that after three years, husband and wife cannot jointly agree as provided above and no divorce decree, order of legal separation, order of annulment, property settlement agreement, agreement of the parties or other legal order has been entered or approved which would otherwise resolve the issue to the satisfaction of the Community Foundation, the advisors may be notified by OCCF regarding the inactivity and given a minimum of 120 days to respond regarding their plans for the fund. Failure to respond within the designated time frame may result in OCCF declaring the fund to be inactive. If there are no established philanthropic guidelines, the use of the remaining balance of the inactive fund will be determined by OCCF's Board of Governors.

Succession of Donor-advised funds

Naming Successor Advisors: In the established Donor-advised fund Agreement, the Founder may name successor advisors who will have the authority to make grant recommendations if the Founder and/or other Advisors are no longer willing or able to advise.

Establishment of Intent: Each Founder may create philanthropic guidelines to carry on the intent of their fund should they no longer be willing or able to make recommendations. If there are no Advisors willing or able to act and there are no established philanthropic guidelines for a fund, then the remaining balance of the fund will become a part of the Orange County Endowment, a fund devoted solely to meeting needs in Orange County under the direction of OCCF's Board of Governors.

Definitions of Terms

Donor Advised Fund: A charitable fund administered by a third party and created for the purpose of managing charitable donations on behalf of an organization, family, or individual.

Fund Founder: Founders are those who establish the fund and have the right to revise certain terms of the fund agreement, such as the name of the fund and who may serve as fund advisors.

Fund Advisor: Advisors are those who have the right to make recommendations on grant distributions from the fund.

Successor Advisor: Successor advisors can make recommendations on grants from the fund when initial fund advisors resign or pass away. If no successor advisors are named, OCCF will administer the fund according to the current or established fund provisions.

Qualified Charitable Organization: an organization that has been granted tax-exempt status by the IRS and is eligible to receive tax-deductible charitable contributions.

Policy Timeline	Date
<i>Adopted by Board</i>	02/10/2011
<i>Adopted by Board (Revised)</i>	12/09/2015
<i>Updated</i>	03/27/2019
<i>Updated</i>	9/23/2020
<i>Next Review</i>	
<i>Owner</i>	Cathleen Otero, VP Donor Relations & Programs
<i>Department (saved)</i>	DRP_CEP Fund Management

Agenda Item 4

Board meetings in person or
virtually

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: November 17, 2021

SUBJECT: Option to resume in person meetings or continue to meet virtually pursuant to newly enacted legislation and, if virtually, amend regular calendar to meet monthly.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. CHOOSE ONE OPTION:
 - A. REVERT TO IN PERSON MEETINGS ACCORDING TO EXISTING TRUST BOARD CALENDAR OF EVERY OTHER MONTH.
 - B. APPROVE MEETING VIRTUALLY IN ACCORDANCE WITH AB 361; ADOPT RESOLUTION AMENDING REGULAR CALENDAR TO INCLUDE MONTHLY MEETINGS AND REVIEW AND RECONSIDER THE CIRCUMSTANCES OF THE STATE OF EMERGENCY.
 - I. IN REVIEWING THE CIRCUMSTANCES OF THE STATE OF EMERGENCY, THE ORANGE COUNTY HOUSING FINANCE TRUST BOARD OF DIRECTORS FINDS:
 1. BOARD OF DIRECTORS HAS CONSIDERED THE STATE OF EMERGENCY AND
 2. THE STATE OF EMERGENCY CONTINUES DIRECTLY IMPACT THE ABILITY OF THE MEMBERS TO MEET SAFELY IN PERSON OR STATE.

BACKGROUND:

The Ralph M. Brown Act (Gov. Code §§ 54950-54963) requires that most deliberations and actions of legislative bodies, such as the Trust Board of Directors, be conducted and held openly. Prior to the COVID-19 emergency, this required meetings of those bodies to be held in person, with teleconferencing by a member allowed only under limited circumstances. On June 11, 2021, the Governor issued Executive Order (EO) N-08-21, waiving certain provisions of the Brown Act and authorizing legislative bodies to hold public meetings virtually. The Executive Order specified that those waivers were to remain valid through September 30, 2021. Since EO N-08-21, the Trust Board of Directors has met in a hybrid form, with some members appearing in person, and others appearing telephonically.

AB 361

On September 16, 2021, the Governor signed into law Assembly Bill 361 (AB 361), amending the Brown Act to allow Legislative bodies to continue virtual meetings until January 1, 2024, but with less flexibility than afforded by the EO N-08-21.

First, the normal teleconference requirements (e.g., posting the agenda and allowing the public to attend at each teleconference location where a member of the legislative body is located) under the Brown Act may be suspended (as they were under the Executive Order that expires September 30, 2021, unless renewed) only if (1) there is a proclaimed state of emergency AND (2) either of the following exist: (a) state or local officials have imposed or recommended measures to promote social distancing, OR (b) the body holds a meeting to determine or has already determined by majority vote that meeting in person would present imminent risks to the health or safety of attendees as a result of the emergency. Since both the CDH and Dr. Chau, the County's health officer, have recommended social distancing, the Trust qualifies under (2)(a.)

In addition, AB 361 requires a public comment period where the public can address the legislative body directly. It expressly prohibits councils and boards from limiting public comments to only comments submitted in advance and specifies that the legislative body "must provide an opportunity for the public to ... offer comment in real time." In practice, the Trust must hold public comment open for the requisite [3] minutes, per agenda item, as well as a [3] minute public comment period at the end of the agenda, even if there have been no requests to speak.

Most relevant to the Trust, however, is Government Code 54953(e)(3) provides that if the state of emergency remains active or social distancing is still recommended, then in order to continue holding virtual meetings, the legislative body must make the must make certain findings by majority vote: 1) the body has considered the circumstances of the state of emergency AND 2) either of the following exist: a) the state of emergency continues to directly impact the ability of the members to meet safely in person, OR b) state or local officials continue to impose OR recommend measures to promote social distancing. This

finding must be made no later than 30 days after the teleconferenced meeting and every 30 days thereafter.

This means that after this meeting, the Trust Board of Directors must meet at least once every 30 days to continue holding virtual meetings. Please note, neither Trust staff nor the Chair, independently, can make these findings on behalf of the Trust Board of Directors. Rather, a legislative body that wishes to implement AB 361 to continue holding meetings virtually would need to make the requisite findings at a meeting of that body. Failure to take these actions would likely necessitate the legislative body holding at least one in-person meeting to make the required findings and resume virtual meetings. In short, going forward, the OCHFT Board of Director meetings must comply with AB 361 if they wish to meet virtually.

CONCLUSION

The Board will need to decide if it wishes to continue meeting virtually during the declared State of Emergency or whether it wishes to revert to in person meetings. If the Board wishes to continue to meet virtually, in order to comply with AB 361, it must make the requisite finding, via resolution, as stated in Recommended Action 1.B, and as included in the Resolution attached as Attachment A.

ATTACHMENT: Attachment A – Resolution of the Board of Directors of the OCHFT

RESOLUTION OF THE BOARD OF DIRECTORS OF
THE ORANGE COUNTY HOUSING FINANCE TRUST
November 17, 2021

WHEREAS, Government Code section 54954 requires the Board of Directors to adopt by ordinance, resolution, or bylaws the time and place for holding regular meetings; and

WHEREAS, the Orange County Housing Finance Trust Joint Powers Agreement authorizes the Board of Directors to fix the dates and times for its regular meetings by resolution; and

WHEREAS, the Board of Directors determined that establishing a calendar for Orange County Housing Finance Trust for regular meetings on the 3rd Wednesday of odd months, from 10am-11:30am will fulfill both the requirements of the Brown Act and the Joint Powers Agreement on September 16, 2020; and

WHEREAS, this Board has reviewed and considered the circumstances of the State of Emergency due to COVID-19; and

WHEREAS, this Board has determined that it wishes to meet virtually until the declared State of Emergency is lifted; and

WHEREAS, in order to meet monthly the Board's regular meetings calendar must be amended; and

WHEREAS, the Board of Directors determined that amending the existing calendar for Orange County Housing Finance Trust for regular meetings on the 3rd Wednesday of every month, from 10am-11:30am will fulfill both the requirements of the Brown Act and the Joint Powers Agreement.

NOW, THEREFORE, BE IT RESOLVED that

1. The Board of Directors finds that the State of Emergency continues directly impacts the ability of the members to meet safely in person.
2. The regular meetings for the 2021 and 2022 calendar are amended shall be held in accordance with Attachment 1.

2021 Orange County Housing Finance Trust Meeting Calendar

January 20th

March 17th

May 19th

July 21st

September 15th

November 17th

December 15th

2022 Orange County Housing Finance Trust Meeting Calendar

January 19th

February 16th

March 16th

April 20th

May 18th

June 15th

July 20th

August 17th

September 21st

October 19th

November 16th

December 21st