

**CONSULTANT SERVICE AGREEMENT BETWEEN THE HOUSING  
ENDOWMENT AND REGIONAL TRUST OF SAN MATEO COUNTY  
AND THE CITY OF BURLINGAME**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_ 2026 (the “Effective Date”), by and between the Housing Endowment and Regional Trust of San Mateo County (hereinafter "HEART"), and the City of Burlingame (hereinafter "City") (HEART and City will be referred to collectively herein as the “Parties”).

**RECITALS**

**WHEREAS**, HEART is a Joint Powers Authority (“JPA”) established by the County of San Mateo (“County”) and those cities and towns within the County (“Member Agencies”), via the Joint Exercise of Powers Agreement (“JPA Agreement”) dated May 13, 2003, as amended and superseded by the First Amended Joint Exercise of Powers Agreement (“First Amended JPA Agreement”) dated September 9, 2008; and

**WHEREAS**, Member Agencies have adopted housing elements identifying new housing programs and efforts, and need support to carry out these programs; and

**WHEREAS**, the workload to manage Members Agencies’ housing programs is sporadic, inconsistent and does not lend itself to each Member Agency hiring housing staff; and

**WHEREAS**, the First Amended JPA Agreement authorizes HEART to facilitate and assist Member Agencies to operate, regulate, maintain, facilitate the planning, and study appropriate housing programs, projects, and housing management practices; and

**WHEREAS**, City is a Member Agency of HEART and wishes to engage HEART to render certain services to assist in carrying out its housing programs; and

**WHEREAS**, HEART and City have agreed for HEART to provide to City qualified individuals, with the skill set to perform the requisite services, based on the terms and conditions as set forth in this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, the parties hereby agree as follows:

1. **PROJECT COORDINATION/DESCRIPTION.**

The HEART Executive Director, or appropriate designee, is hereby designated the Manager for HEART, and the Planning Director or their designee, is hereby designated the City Project Manager for City. The City Project Manager shall monitor, review, and approve the progress and execution of the work as described in the Scope of Work in Exhibit A of this Agreement. The Manager shall supervise all housing and housing related activities and assignments carried out under this Agreement by HEART staff.

2. **HEART HOUSING STAFF.**

- A. HEART will assign to the City one or more HEART staff to provide the work and/or materials as generally described in the Scope of Services (the “Work”). In the event of a conflict or inconsistency between the text of the main body of this Agreement and Exhibit A, the text of the main body of this Agreement shall prevail.
- B. Parties acknowledge and agree that HEART will endeavor to provide consistent weekly

work progress on assignments, but parties acknowledge that the actual timing of Work will ebb and flow based on the City's needs and the needs of other Member Agencies.

- C. HEART will assign HEART staff to perform the Work under this Agreement, and may assign different individuals as it sees fit, subject to Paragraph E in this section and subject to the terms and notice requirements set forth below.
- D. HEART staff shall perform the Work required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the types of work. HEART staff shall devote such time to the performance of the Work pursuant to this Agreement as may be reasonably necessary to meet the standard of performance described in Exhibit A. HEART shall provide quarterly reports listing the major tasks worked on for the City and the total hours spent performing work for City.
- E. Assignment of HEART staff to provide the Work is at the sole discretion of HEART. In the event that City or HEART, at any time during the term of this Agreement, desires the reassignment of staff, City and HEART shall meet and discuss in good faith to address the issue of concern, including but not limited to reassigning such person or persons. Manager will attempt to accommodate City's requests to assign, or to not assign, specific staff to certain projects. In the event the assigned employee's employment with HEART ends or there is an extended leave of absence, HEART will endeavor to secure and assign a replacement employee to fill that role at the first opportunity.
- F. At any time, HEART staff may be providing services to one or more Member Agencies concurrent with the Work being provided to City under this Agreement.
- G. HEART staff assigned may require access to City's computer systems and networks to complete the assigned Work. City shall provide access to these systems according to its policies for external consultants or provide other reasonable means of access necessary for the HEART staff to perform the Work being provided under this Agreement. HEART requires its employees to agree to appropriate system usage policies, which include a pledge not to use City's electronic equipment for anything other than City work. The City may require the HEART staff to sign the City's electronic technology use and confidentiality policies.
- H. The parties agree to cooperate fully and to provide assistance to all relevant parties in the investigation and resolution of any complaints, claims, actions, or proceedings that may be brought by or that may involve assigned employees providing Work under this Agreement.
- I. HEART shall, at its sole expense, supply for its employees providing Work to City pursuant to this Agreement any and all benefits, such as worker's compensation, disability insurance, vacation pay, sick pay, or retirement benefits; obtain and maintain all licenses and permits usual or necessary for performing the Work; pay any and all taxes incurred as a result of the employee(s) compensation, including employment or other taxes; and provide City with proof on demand.

### 3. COMPENSATION.

In consideration of the Work described in the Scope of Services, City will pay HEART an amount not to exceed \$160,000. Payments to HEART will be made based on an hourly basis, based on

the hourly rates in Table 1, below.

Position	2026/2027	2027/2028	2028/2029
Executive Director	\$222	\$227	\$233
Director	\$190	\$196	\$204
Senior Project Manager	N/A	\$148	\$162
Project Manager	\$127	\$131	\$133
Analyst	\$105	\$114	\$118
Fellow/Admin	\$86	\$88	\$92

HEART will invoice City at the end of each month following the Effective Date of this agreement,

4. TERM OF AGREEMENT.

The Term of this Agreement will start from the Effective Date, and shall continue until June 30, 2029, or until terminated in accordance with Section 5, below.

5. TERMINATION.

- A. Either party may terminate this Agreement for cause if a party materially breaches its obligations under this Agreement, and such breach is not cured or corrected within fifteen (15) business days' written notice to the reasonable satisfaction of the party giving such notice.
- B. HEART may terminate the Agreement without cause with six-month notice to City. HEART agrees to cooperate with the City on the transfer of work to City or a third party. Upon receipt of notice of termination by HEART, City shall incur additional obligations under the provision of this Agreement only with the prior written consent of City.
- C. City may terminate this agreement without cause with one hundred twenty (120) days' notice to HEART. Upon receipt of notice of termination by City, City shall continue to incur financial obligations under the provision of this Agreement for one hundred twenty (120) days. This financial obligation may be waived by HEART if the HEART staff can be assigned to another Member Agency. Upon termination by City, HEART will diligently attempt to assign the staff to another Member Agency.

6. INDEMNITY.

- A. To the fullest extent permitted by law, City shall defend, hold harmless and indemnify HEART, its elected and appointed officials, officers, agents, and/or employees from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury in law or equity for injuries to persons and/or damage to property, and/or economic damages which arise out of or in connection to the performance of this Agreement resulting from the willful misconduct or negligent acts or omissions of City, its officers, agents and/or employees, or the failure to abide by any obligations under this Agreement.

- B. To the fullest extent permitted by law, HEART shall defend, hold harmless and indemnify City, its elected and appointed officials, officers, agents and/or employees from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury in law or equity for injuries to persons and/ or damage to property, and/ or economic damages which arise out of or in connection to the performance of this Agreement resulting from the willful misconduct or negligent acts or omissions of HEART, its officers, agents, and/ or employees, or the failure to abide by any obligations under this Agreement.
- C. In the event of the concurrent negligence of City, its officers, agents and/or employees, and HEART, its officers, agents and/ or employees, then the liability for any and all claims for injuries or damages which arise out of the performance of this Agreement shall be apportioned under California's Theory of Comparative negligence as presently established or may be hereafter modified.
- D. City shall have no obligation to defend, hold harmless and indemnify any other Member Agencies of HEART.
- E. The duty to indemnify and hold harmless as set forth by this Section 6 shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

7. NOTICES.

All notices permitted or required under this Agreement shall be given to the respective Parties in writing and will be delivered to and addressed as follows or to such other place as each Party may designate by subsequent written notice to the other Party. "Written notice" as used herein may include notice by email to the email addresses set forth below, in which case the sending of the email shall satisfy the noticing party's obligations.

HEART: Housing Endowment and Regional Trust of San Mateo  
County Attn: Executive Director  
2905 S. El Camino Real  
San Mateo, CA 94403

By email to: [asanchez@heartofsmc.org](mailto:asanchez@heartofsmc.org)  
With copy to: [admin@heartofsmc.org](mailto:admin@heartofsmc.org) and [tdavis@heartofsmc.org](mailto:tdavis@heartofsmc.org)

City: City of Burlingame  
Attention: Neda Zayer, Community Development Director  
501 Primrose Road  
Burlingame, CA 94010

By email to: Neda Zayer [nzayer@burlingame.org](mailto:nzayer@burlingame.org)  
With copy to: Joseph Sanfilippo [jsanfilippo@burlingame.org](mailto:jsanfilippo@burlingame.org)

Such notice shall be deemed made when personally delivered or when mailed by prepaid first class mail on the third day after it was deposited with the United States Postal Service. Notice by email transmission shall be deemed given upon verification of receipt if received before 5:00 p.m. on a regular business day or else on the next business day.

8. INDEPENDENT CONTRACTOR.

- A. It is understood that this Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture, agent-principal relationship or partnership is formed as a result of this Agreement. No employee or agents of one party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other party. HEART staff is not authorized to bind City to any contracts or other obligations.
- B. HEART shall require employees providing Work under this Agreement to sign agreements acknowledging that they are not City employees and therefore are not entitled to holidays, vacations, disability benefits, insurance, pensions, or retirement plans, or any other benefits offered or provided by City to City employees.
- C. For the purposes, and for the duration of this Agreement, the HEART Manager and any staff assigned to provide Work to City will act in the capacity of an Independent Contractor for City, and not as an employee of City.
- D. The parties agree that HEART maintains the authority to direct and oversee the work performed by employees providing Work to City pursuant to this Agreement. City agrees that it shall report to HEART any and all staff issues relating to HEART's employee(s) so that HEART may take any necessary or appropriate actions pursuant to its policies.
- E. HEART represents and warrants that it will comply with all labor laws with respect to its employees providing Work to City under this Agreement.

9. NON-SOLICITATION OF HEART STAFF

During the term of the Agreement, including any extensions thereof, City shall not actively recruit, solicit, or hire any HEART employee assigned by HEART to perform Work for City for the period of this Agreement and for one year thereafter. This shall in no way, however, be construed to restrict, limit, or encumber the rights of any employee granted by law, nor shall it in any way restrict either party from hiring employees who respond to advertisements, or make independent inquiries, for employment.

10. INSURANCE

- A. Prior to beginning the Work and continuing throughout the term of this Agreement, HEART shall, at HEART's sole cost and expense, furnish City with certificates of insurance evidencing that HEART has obtained and maintains insurance in the following amounts:
  - i. Workers' Compensation that satisfies the minimum statutory limits. The Workers' Compensation coverage shall be endorsed with or include a waiver of subrogation in favor of City for all Work performed by HEART and its staff.
  - ii. Commercial General Liability and Property Damage Insurance in an amount not less than TWO MILLION DOLLARS (\$2,000,000) combined single limit per occurrence, FOUR MILLION DOLLARS (\$4,000,000) annual aggregate, for bodily injury, property damage, products, completed operations and contractual liability coverage. The policy shall also include coverage for liability arising out of

the use and operation of any City-owned or City-furnished equipment used or operated by HEART and its staff.

- iii. Comprehensive automobile insurance in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per occurrence for bodily injury and property damage including coverage for owned and non-owned vehicles.
- B. Each of the following shall be included in the coverage or added as an endorsement:
- i. City and its officers, employees, agents, and volunteers shall be covered as additional covered parties with respect to HEART's general commercial, and automobile coverage for claims, demands, and causes of action arising out of or relating to HEART's performance of this Agreement and to the extent caused by HEART's negligent act, error, or omission.
  - ii. An endorsement to HEART's general commercial and automobile coverages must state that coverage is primary with respect to City and its officers, officials, employees, and volunteers.
  - iii. An endorsement to include a waiver of subrogation in favor of City.
  - iv. All coverages shall be on an occurrence or an accident basis, and not on a claims-made basis.
- C. HEART shall include all subcontractors as insureds under its coverage or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- D. During the term of this Agreement, HEART may change the insurance program in which it participates. HEART will provide reasonable notice of any such change to City and replacement copies of Certificates of Coverage and endorsements.
- E. The coverages stated herein shall be maintained throughout the term of this Agreement, and proof of coverage shall be available for inspection by City upon request.
- F. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, HEART shall provide written notice to City at HEART earliest possible opportunity and in no case later than five (5) business days after HEART is notified of the change in coverage.

## 11. MISCELLANEOUS

### A. COMPLIANCE WITH ALL APPLICABLE LAWS; NONDISCRIMINATION.

HEART and its staff shall comply with all applicable local, state, and federal laws, regulations, and ordinances in the performance of this Agreement. HEART shall not discriminate in the provision of service or in the employment of persons engaged in the performance of this Agreement on account of race, color, national origin, ancestry, religion, gender, gender expression, gender identity, marital status, sexual orientation, age, physical or mental disability in violation of any applicable local, state, or federal laws or regulations.

### B. VENUE, ATTORNEYS' FEES.

Any suit or action initiated by either party shall be brought in San Mateo County, California. In that event each party shall incur its own attorney's fees, costs, or other legal expenses to enforce

provisions of this Agreement against the other party, regardless of whether any party shall be deemed the prevailing party.

#### C. RECORDS

i. All final versions of reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that HEART prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. HEART hereby agrees to deliver those documents to City upon termination of the Agreement, if requested. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for City and are not necessarily suitable for any future or other use.

ii. HEART shall hold any confidential information received from City in the course of performing this Agreement in trust and confidence and will not reveal such confidential information to any person or entity, either during the term of the Agreement or at any time thereafter. Upon expiration of this Agreement, or termination as provided herein, HEART shall return materials which contain any confidential information to City. For purposes of this paragraph, confidential information is defined as all information disclosed to HEART which relates to City past, present, and future activities, as well as activities under this Agreement, which information is not otherwise of public record under California law. City shall notify HEART what information and documents are confidential and thus subject to this Section.

iii. HEART shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for Work or expenditures and disbursements charged to City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment under this Agreement.

iv. Inspection and Audit of Records. Any records or documents that this Section requires HEART to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City.

#### D. ENTIRE AGREEMENT – AMENDMENTS.

- i. The terms and conditions of this Agreement, all exhibits attached, and all documents expressly incorporated by reference, represent the entire Agreement of the parties with respect to the subject matter of this Agreement.
- ii. This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter of this Agreement.
- iii. No other agreement, promise or statement, written or oral, relating to the subject matter of this Agreement, shall be valid or binding, except by way of a written amendment to this Agreement.
- iv. This Agreement may be amended or modified only by written Agreement signed by both Parties.

#### E. SEVERABILITY.

If any provisions of this Agreement are held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if such remainder would continue to serve the purposes and objectives originally contemplated by the Parties.

#### F. REMEDIES, CHOICE OF LAW.

No remedy or election exercised hereunder shall be deemed exclusive but shall be cumulative with all other remedies at law or in equity. This Agreement shall be governed by the laws of the State of California.

G. MEDIATION.

Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached, neither party shall be deemed the prevailing party for purposes of the settlement, and each party shall bear its own legal costs.

H. WAIVER

No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

I. AUTHORITY TO ENTER AGREEMENT

Each Party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective Party.

[SIGNATURE CONTINUES NEXT PAGE]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day, month, and year first above written.

**HEART**

HOUSING ENDOWMENT AND REGIONAL TRUST OF  
SAN MATEO COUNTY, a Joint Powers Agency (“JPA”)  
formed and existing under the laws of the State of California

By: \_\_\_\_\_  
Armando Sanchez, Executive Director

[SIGNATURE CONTINUES NEXT PAGE]

CITY:

CITY OF BURLINGAME, a municipal corporation

By: \_\_\_\_\_

Name:

Its: City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_

## **EXHIBIT A – Scope of Work**

HEART and City will further refine the work plan and scope of services. Activities and services to be performed by HEART may include, but not be limited, to the following:

### **WORK PLAN DEVELOPMENT**

- Consult with City to establish objectives, priorities and schedules for affordable housing programs and activities.
- Work with City to identify services and activities that will continue to be met through City staff and/or other contracted services/consultants.
- Establish monitoring and reporting systems to ensure the adequacy, quality, and timeliness of progress on housing programs and activities.

### **PROGRAM MANAGEMENT: INCLUSIONARY/BELOW MARKET RATE (“BMR”) HOUSING**

- Review existing City inclusionary housing ordinances and procedures and make recommendations for improvements that will help City meet production and fair housing goals set out in the Housing Element.
- Implement of policies and procedures related to legal agreements, marketing, preferences, and lease-ups or sales that improve operations and the process for applicants and residents while also adhering to industry standards in terms of fair housing marketing principles and eligibility determinations.
- Establish systems to monitor BMR units for ongoing eligibility and affordability.
- Establish procedures and systems to ensure the efficient leasing of BMR rental units upon turnover.
- Implement of policies and procedures for resale and subordination requests related to BMR ownership units.
- Track all inclusionary housing activity including project status, marketing timelines, lease-ups, sales, and re-sales.
- Identify, solicit, recommend, and prepare contracts with consultants, as needed.

### **PROGRAM MANAGEMENT: 100% AFFORDABLE HOUSING DEVELOPMENTS**

- Review compliance activities, including the monitoring of regulatory agreements and performance of administrative tasks as requested by the City related to its affordable housing loan portfolio.
- Recommend and prepare policies and procedures related to the use of local funds for the development of 100% affordable housing, including developer selection criteria.
- Research and inform the City of affordable housing funding and financing sources, guidelines, and deadlines.
- Review and evaluate affordable housing proposals and make recommendations regarding project selection to the City Council.
- Assist City with disposition of City owned properties for the production of affordable housing, including selection of a developer, assistance with project approval, and assistance with funding applications, while assuring compliance with State laws related to property disposition.
- Attend meetings and make presentations to City staff, City Council, administrators, and various private and community organizations to discuss project status, as necessary.
- Review existing affordable housing agreements and assist the City with efforts to preserve existing income restricted housing threatened by rehabilitation needs or expiring affordability agreements.

## IMPLEMENTATION OF THE HOUSING ELEMENT

In consultation with City, HEART may undertake additional activities intended to implement the Housing Element and the City's housing goals including, but not limited to:

- Assist City with the completion of State required Annual Progress Reports.
- Assist with creation of any housing policies or programs called for in the Housing Element
- Develop and begin implementation of monitoring procedures for Accessory Dwelling Units.
- Advise City on the establishment of a fund to support housing production.
- Advise City on the use of local funds for programs that support resident stability such as rental assistance, relocation assistance, eviction prevention, home repairs, and foreclosure prevention.
- Assure that the City web site includes information on fair housing, housing resources, and services and recommend adding information as needed.
- Prepare and make information available to City residents on housing-related questions.
- Implement other Housing Element goals, as defined by the City.

## MEETING OTHER HOUSING REQUIREMENTS

HEART shall assist the City in meeting any additional housing policy and program requirements that may be established by the local, state, or federal government and quasi-governmental agencies, such as those required under the Metropolitan Transit Commission's Transit Oriented Communities Policy.

## MONITORING EVOLVING STATE AND FEDERAL GUIDELINES AND RESOURCES

- Review and prepare memos on proposed Federal and State regulations and their prospective impact on local requirements and programs, and suggest alternative courses of action, as applicable.
- Provide updates to City elected officials regarding details on State and Federal requirements.
- Maintain an awareness of the availability, guidelines, and deadlines for federal and state affordable housing funding sources.