

MEMORANDUM OF UNDERSTANDING

between

TACOMA HOUSING AUTHORITY
902 South L Street, Tacoma, WA 98405

and

[AGENCY]
[address]

The Housing Authority of the City of Tacoma (THA) and [agency] (“Agency”) agree as follows:

1. PURPOSE

The purpose of this Memorandum of Understanding (this “MOU”) is set forth in Attachment A. That Attachment also describes the respective responsibilities of the parties.

2. DURATION

This MOU will be effective starting on the date of the last signature of a party below. Unless terminated earlier pursuant to section 3 below, it shall expire without notice on _____. All payment obligations and indemnification obligations of the parties set forth in this MOU and any other other obligations of the parties set forth in this MOU that contemplate surviving beyond the expiration or termination of this MOU shall survive the expiration or termination for any reason of this MOU.

3. EARLY TERMINATION

3.1 Termination for Convenience. Either party may terminate this agreement without cause. To do that, a party must deliver to the other party a written notice stating the date of termination. The notice must be delivered 30 days in advance of the termination date.

3.2 Termination for Cause. Each party each have the right to immediately terminate this MOU upon the occurrence of any event of default by the other party upon written notice to the defaulting party, specifying the nature of such default. An “event of default” shall be defined as the occurrence of any one or more of the following:

3.2.1. A party shall file a voluntary petition in bankruptcy, or is adjudicated to be bankrupt or insolvent or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation,

dissolution or similar relief under any present or future statute or law relating to bankruptcy, insolvency, or other relief from debts, whether federal or state, or shall seek, consent to, or acquiesce in the appointment of any trustee, receiver, conservator or liquidator of the party or of all or any substantial part of its properties; and/or

- 3.2.2. If a party breaches applicable law with respect to performance of any aspect of its obligations under this MOU, which breach the other party reasonably believes is incompatible with the completion of the responsibilities of that party described in Attachment A (or any one of them) in a timely manner and consistent with all applicable governmental and funding and financing laws and requirements; and/or
- 3.2.3. A party fails to perform any of its duties, obligations, or services set forth in this MOU in the manner required herein, or commits or permits a breach of or default in any of its duties, liabilities or obligations hereunder, and fails to fully cure or remedy such failure, breach or default within 30 days after written notice by the other party specifying the nature of such failure, breach or default, or if such failure, breach or default cannot reasonably be cured within 30 days, the defaulting party fails to commence such cure or remedy within said 30 day period or at any time thereafter fails to diligently prosecute such cure or remedy to completion.

The defaulting Party, upon receipt of a notice from the other party that it intends to terminate this MOU, shall cooperate with nondefaulting party to effect the orderly transition of the responsibilities of defaulting party under this MOU to the defaulting party or its designee. Remedies of the parties under this MOU shall be in addition to all other remedies the parties may have at law or in equity.

4. GENERAL PROVISIONS

4.1 Risk to Children and Vulnerable Adults; Criminal Background Checks.

If the work pursuant to this MOU may result in contact with children or vulnerable adults, neither the AGENCY, nor THA shall use any employee, volunteer, intern, or agent for performance of such work under this MOU whom it has reason to believe may pose a risk to such children or vulnerable adults; or has been convicted of a crime against children or vulnerable adults. If the work pursuant to this MOU may result in contact with children or vulnerable adults, before using any employee, volunteer, intern, or agent for performance of work under this MOU, the AGENCY will procure their criminal conviction record in accordance with RCW 43.43.830 through RCW 43.43.834, as applicable.

4.2 Confidentiality

Except to the extent required by applicable law, AGENCY agrees not to divulge or release any client information, reports, results of research or analysis, or recommendations developed or obtained in connection with performance of this

MOU other than to authorized personnel of THA or upon THA's prior written approval.

4.3 Indemnification

AGENCY hereby releases and shall indemnify, defend, and hold harmless THA, its subsidiaries, affiliates, officers, agents, employees, successors, assigns, and authorized representatives of all of the foregoing (individually each an "Indemnified Party" and collectively the "Indemnified Parties") from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of any kind or nature, including but not limited to those arising out of injury to or death of AGENCY's employees, whether arising before or after completion of the work hereunder, in any manner directly or indirectly arising out of, or claimed to arise out of in whole or in part any act, omission, fault, or negligence of AGENCY and/or AGENCY's sub-contractors, and/or anyone acting under its/their direction of control, or on its/their behalf (collectively, "those for whom AGENCY is responsible") in connection with or incidental to the performance of this MOU ("Indemnity Claims"). AGENCY's aforesaid release, indemnity, defense and hold harmless obligations, shall apply even in the event of the concurrent fault, negligence, or strict liability of the Indemnified Parties. Provided, however, that (i) in no event shall AGENCY be obligated to release, indemnify, defend or hold harmless Indemnified Party(ies) against Indemnity Claims caused by or resulting from the sole negligence of an Indemnified Party (ies); and (ii) with respect to release, indemnity, defense and hold harmless obligations against Indemnity Claims caused by or resulting from the concurrent negligence of (a) Indemnified Party (ies) on the one hand, and of (b) AGENCY and those for whom AGENCY is responsible on the other hand, AGENCY's release, indemnity, defense and hold harmless obligations extend only to the extent caused by the negligence of AGENCY and those for whom AGENCY is responsible.

For the sole purpose of effecting the release, indemnity, defense and hold harmless obligations hereunder and not for the benefit of the AGENCY's employees or any third parties unrelated to an Indemnified Party, the AGENCY specifically and expressly waives any immunity that may be granted it under any applicable Workers' Compensation Act, disability benefit acts or other employee benefit acts (Title 51 RCW or otherwise). The release, indemnity, defense and hold harmless obligations hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under worker compensation acts, disability benefit acts or other employee benefit acts.

THA AND THE AGENCY ACKNOWLEDGE THAT THE ABOVE WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES. INITIALS OF AUTHORIZED OFFICER OF THA: (____) INITIALS OF AUTHORIZED OFFICER OF THE AGENCY: (____).

AGENCY agrees to require all its sub-contractors of every tier or anyone acting under its/their direction, control, or on its/their behalf in connection with, or incidental to the performance of this MOU to execute an indemnity clause identical to the preceding clause, specifically naming the Indemnified Parties as indemnitees.

4.4 Insurance

AGENCY shall keep insurance coverage in full force and effect of the type and to the extent set forth in Attachment B to this MOU.

4.5 Dispute Resolution

4.5.1. A party wishing to resolve a dispute with another party concerning this MOU may deliver to the other party a written notice. The notice shall describe the issue in sufficient detail to allow the other party to understand the matter. The parties shall then confer in a good faith effort to resolve the matter.

4.5.2. In the event a dispute arises between the parties that is not resolved as described in 4.5.1, the parties agree to submit all disputes to mediation. The parties agree to utilize the services of a mutually agreeable mediator to mediate all conflicts and disputes arising from this MOU, with such mediation to be conducted in Pierce. In the event mediation is unsuccessful, such conflict or dispute shall be submitted to binding arbitration, conducted in Pierce County pursuant to the rules and procedures of the American Arbitration Association. Costs to conduct mediation and/or arbitration shall be shared equally between the parties.

4.5.3. In the event of any dispute resolution proceeding brought by either party to enforce or construe the terms of this MOU, the prevailing party in such proceeding shall be awarded its reasonable costs and attorneys' fees incurred in connection with such proceedings.

4.6 Contacts

The following shall be the parties' contacts for written notification pursuant to this MOU:

THA

Name _____

Phone _____

Email _____
Agency _____
Name _____
Phone _____
Email _____

4.7 Governing Law and Venue

Washington State law shall govern the interpretation of this MOU. Pierce County shall be the venue of any arbitration or lawsuit arising out of this MOU.

4.8 Severability

If one or more of the clauses of this MOU is found to be unenforceable, illegal or contrary to public policy, the MOU will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.

4.9 Third Party Beneficiary Rights

This MOU does not confer any rights on any other person or entity and does not give them any status as a third party beneficiary.

4.10 Entire Agreement

This MOU constitutes the entire agreement between THA and AGENCY. It replaces and supersedes all prior oral or written proposals and agreements. No amendment or modification of this agreement shall have any force or effect whatsoever unless and until the parties agree to it in a signed writing. All Attachments to this MOU are incorporated herein by this reference. All section headings in this MOU are for convenience of reference only and are not intended to qualify the meaning of any section.

4.11 Binding Agreement

This MOU shall be binding upon the parties hereto, their heirs, executors, personal representatives, successors and assigns.

4.12 Execution in Counterpart

This MOU may be executed in several counterparts and all so executed so constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart.

[Signatures Follow]

**HOUSING AUTHORITY OF THE CITY
OF TACOMA**

[AGENCY]

BY: _____
Michael Mirra
Executive Director

BY: _____
By: _____
Title: _____

Date: _____

Date: _____