

**PROFESSIONAL SERVICE AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND
OPERATION DIGNITY INC.**

PARTIES AND EFFECTIVE DATE

This *Professional Service Agreement* (“Agreement” or “Contract”) is made by and between the CITY OF OAKLAND, a municipal corporation (“City”), and Operation Dignity Inc., (“Contractor”) (collectively the “Parties”) and shall be effective on the date the Agreement is executed by all Parties (“Effective Date”).

RECITALS

- A. The City wishes to enter into a Professional Service Agreement with Operation Dignity to provide mobile outreach services to homeless individuals and families in the city of Oakland.
- B. This Agreement was competitively procured as required by Oakland Municipal Code Chapter 2.04.
- C. The City Council approved this Agreement by Resolution No. 90358 C.M.S. on July 16, 2024.
- D. The City Administrator has determined that this Agreement is for services that are professional, scientific, or technical and temporary in nature and that this Agreement will not result in the loss of employment or salary by any person having permanent status in the competitive service.
- E. This Agreement is being funded in whole or in part by the State of California Homeless from the Housing Assistance and Prevention Round (HHAP) 4, FY 2023-2025.
- F. Funds are available for this Agreement in the City Administrator’s Office Fund (2244), Measure Q Project (1005349) and Community Housing Services Organization Fund (78411), HHAP, Round 4 (1006961).

NOW, THEREFORE, the Parties to this Agreement covenant as follows:

AGREEMENT PROVISIONS

1. Scope of Services

Contractor agrees to perform the services specified in **Schedule A, Scope of Services** attached to this Agreement and incorporated herein by reference.

Contractor shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement. The Project Manager for the City shall be **Chantal Reynolds**.

2. Time of Performance

The time for performance under this Agreement (“Term”) shall begin on **July 1, 2024** and shall end **June 30, 2025**.

3. Compensation and Method of Payment

Contractor shall be paid for the performance of services set forth in **Schedule A** during the Agreement Term in accordance with **Schedule B, Budget**, attached hereto and incorporated herein. Payments shall be based on actual eligible costs incurred by Contractor in the performance of the services under this Agreement but shall be capped so as not to exceed **\$1,200,000** (“Capped Amount”). The maximum amount paid for the performance of services under this Agreement shall not exceed the Capped Amount, even if the Contractor’s actual costs exceed the Capped Amount. All invoices submitted for payment shall identify the completed deliverable(s) and the billable amount for each deliverable along with any supporting documentation (i.e. receipts). Payments shall be due upon completion and acceptance of the services or as otherwise specified in **Schedule A** or **Schedule B**.

In the aggregate, progress payments will not exceed ninety percent (90%) of the total amount of the Contract, with the balance to be paid upon satisfactory completion of the entire Contract. Progress, or other payments, will be based on services rendered, and will not be made in advance of services rendered.

In computing the amount of any progress payment (this includes any partial payment of the contract price during the progress of the work, even though the work is broken down into clearly identifiable stages, or separate tasks), the City will determine the amount that the Contractor has earned during the period for which payment is being made, on the basis of the Contract terms.

4. Independent Contractor

a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is an independent contractor, and is not an employee of the City. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation, and discharge of all persons assisting Contractor in the performance of Contractor’s services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for Contractor’s own acts and those of Contractor’s subordinates and employees. Contractor will determine the method, details, and means of performing the services described in **Schedule A**.

b. Contractor’s Qualifications

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Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of the City. Contractor warrants that the Contractor, and the Contractor's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state, and local laws, statutes, ordinances, rules, and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. Failure to perform all of the Services required under this Agreement will constitute a material breach of the Agreement and may be cause for the City's termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this Agreement, Contractor shall complete and submit **Schedule M, Part A, Independent Contractor Questionnaire**, which shall be attached hereto and incorporated herein.

c. Payment of Income Taxes

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest, or damages suffered by the City resulting from Contractor's failure to comply with this provision.

d. Non-Exclusive Relationship

Contractor may perform services for, and contract with, as many additional clients, persons, or companies as Contractor, in Contractor's sole discretion, sees fit.

e. Tools, Materials, and Equipment

Contractor will supply all tools, materials, and equipment required to perform the services under this Agreement.

f. Cooperation of the City

The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

g. Extra Work

Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

5. Proprietary or Confidential Information of the City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information received from the City, or collected on behalf of the City, including personal identifying data, shall be held in confidence and used only in the performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

6. Ownership of Results

Any interest of Contractor or its Subcontractors, in specifications, studies, reports, memoranda, computations, drawings, plans, sheets, or other documents prepared by Contractor or its Subcontractors in connection with services to be performed under this Agreement shall be assigned and transmitted to the City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

7. Copyright

Contractor shall timely execute and provide to the City all necessary documents to assign to the City the copyright to works created pursuant to this Agreement.

8. Audit

Contractor shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Contractor shall (a) permit the City to have access to those records for the purpose of making an audit, examination, or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Contractor under this Agreement.

In addition to the above, Contractor agrees to comply with all audit, inspection, recordkeeping, and fiscal reporting requirements incorporated by reference.

9. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company, or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall

have the right to immediately terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, or gift.

10. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations, or interest in this Agreement or arising hereunder to any person, persons, entity, or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute City's consent to any further assignment or transfer.

11. Publicity

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews, and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

12. Title of Property

Title to all property, real and personal, acquired by the Contractor from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Contractor acknowledges it is responsible for the protection, maintenance, and preservation of all such property held in custody for the City during the term of the Agreement. The Contractor shall, upon expiration or termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Contractor shall immediately notify the Police Department, obtain a written police report, and notify the City in accordance with "Notice" section of this Agreement.

Contractor shall provide to the City Auditor all property-related audit and other reports required under this Agreement.

Contractor shall obtain the City's approval prior to the disposition or sale of any real or personal property acquired with City funds.

13. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Contractor must acquire and maintain for the duration of this Agreement, the policies of insurance identified in **Schedule Q, Insurance Requirements**, attached hereto and incorporated herein. Contractor must submit proof of insurance, which shall be attached hereto and incorporated herein.

14. Indemnification

- a. Notwithstanding any other provision of this Agreement, Contractor shall indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:
- (i) Breach of Contractor's obligations, representations, or warranties under this Agreement;
 - (ii) Act or failure to act in the course of performance by Contractor under this Agreement;
 - (iii) Negligent or willful acts or omissions in the course of performance by Contractor under this Agreement;
 - (iv) The use or occupancy of City property by Contractor, including but not limited to nuisance claims, claims by an invitee regarding claimed tenancy on City property, or claims related to habitability or tenantability of City property;
 - (v) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error, or omission of Contractor;
 - (vi) Unauthorized use or disclosure by Contractor of Confidential Information as provided in the Proprietary or Confidential Information of the City section above; and
 - (vii) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trademark, service mark, or other proprietary or intellectual property rights of any third party.
- b. For purposes of the preceding Subsections (i) through (vi), the term "Contractor" includes Contractor, its officers, directors, employees, representatives, agents, servants, sub-consultants, and subcontractors.

- c. City shall give Contractor prompt written notice of any such claim of loss or damage and shall cooperate with Contractor, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.
- d. Notwithstanding the foregoing, City shall have the right if Contractor fails or refuses to defend City with Counsel acceptable to City to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold any payments due Contractor in the amount of anticipated defense costs plus additional reasonable amounts as security for Contractor's obligations under this Section 15. In no event shall Contractor agree to the settlement of any claim described herein without the prior written consent of the City.
- e. Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any action or claim which potentially falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Contractor by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence, or willful misconduct of an Indemnitee.
- f. All of Contractor's obligations under this Section are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
- g. Contractor's indemnification obligations set forth above shall not be limited by the City's insurance requirements contained in Schedule Q hereof, nor by any other provision of this Agreement. City's liability under this Agreement shall be limited to the payment of Contractor in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

15. Right to Offset Claims for Money

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of: a) this Agreement; b) any purchase order; or c) any other transaction with Contractor.

16. Prompt Payment Ordinance

Contractor shall comply with the City's Prompt Payment Ordinance, Title 2, Chapter 2.06 of the Oakland Municipal Code. The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of receipt of invoices unless the Contractor or its subcontractors notify the City of Oakland Liaison within the Department of Workplace and Employment Standards ("Liaison") in writing

within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed payments are subject to investigation by the Liaison upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check, or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of the release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractor is required to file an affidavit, under penalty of perjury, that Contractor has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance with the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment under the Prompt Payment Ordinance may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this Agreement.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <https://www.oaklandca.gov/resources/prompt-payment-forms> or in the Department of Workplace and Employment Standards, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261, or email vinman@oaklandca.gov.

17. Arizona and Arizona-Based Businesses

Contractor confirms that it has read and understood City Resolution No. 82727 C.M.S., which urges City Departments to the extent practicable and in instances where there is no significant additional cost to the City of conflict with the law, to refrain from entering into new or amended contracts to purchase goods or services from any company that is headquartered in Arizona, and urges companies to also boycott the State of Arizona and Arizona-based businesses until Arizona repeals SB 1070. Contractor agrees, in accordance with City Resolution No. 82727 C.M.S., that Contractor is not currently headquartered in the State of Arizona and shall not establish an Arizona business headquarters for the duration of this Agreement or until Arizona rescinds SB 1070.

18. Sanctuary City Contracting and Investment Ordinance

Contractor confirms that it has read and understood Oakland Municipal Code Chapter 2.23, Sanctuary City Contracting and Investment Ordinance, which prohibits the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE), the United States Customs and Border Protection (CBP) Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) with any “data broker,” “extreme vetting,” or “detention facilities” services (as defined in Oakland Municipal Code Section 2.23.020) unless the prohibition is waived.

Contractor certifies that it has completed a Declaration of Compliance with the Sanctuary City Contracting and Investment Ordinance (Schedule I) to secure this Agreement, incorporated herein, and agrees, as a material condition of this Agreement, that Contractor and its agents or subcontractors that provide goods or services to or for the City under this Agreement have not been contracted to provide ICE, CBP, or the HHS/ORR with data broker, extreme vetting, or immigration detention facilities services, and that the City, in its sole discretion shall determine such failure.

19. Border Wall Ordinance

Contractor confirms that it has read and understood Oakland Municipal Code Chapter 2.22, Border Wall Ordinance, which prohibits the City from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any “BORDER WALL ENTITY” (as defined by Section 2.22.020 of the Oakland Municipal Code), individual, firm, or financial institution who provides any services, goods, equipment or information technology or cloud-based technology or services, to construction of a wall along any part of the United States-Mexico border unless the prohibition is waived.

Contractor certifies that it has completed a Declaration of Compliance with the Border Wall Ordinance (Schedule W) to secure this Agreement, incorporated herein, and agrees, as a material condition of this Agreement, that Contractor and its agents or subcontractors that provide goods or services to or for the City under this Agreement have not been hired

to provide services, goods, products, equipment, or information or cyber technology, construction, architectural, engineering, or any professional services for the construction of the Border Wall, or any Border Wall Work or provide such services for the duration this Agreement. Contractor stipulates that failure to comply with the requirements of Oakland Municipal Code Chapter 2.22 shall constitute a material breach by Contractor of this Agreement. The City in its sole discretion shall determine such failure.

20. Dispute Disclosure

Contractors are required to disclose pending disputes with the City of Oakland. Contractor agrees to disclose and has disclosed, any and all pending disputes with the City in writing to the Project Manager. Failure to disclose pending disputes prior to execution of this Agreement or any subsequent amendment shall be a basis for termination of the Agreement.

21. Events of Default and Remedies

A. The occurrence of any of the following shall constitute a material default and breach of this Agreement by Contractor:

1. Failure to adequately perform the Work set forth in the Scope of Work;
2. The use or expenditure of funds, property, and/or information provided under this Agreement by Contractor in any manner that is not consistent with the purpose of this Agreement or in compliance with the Scope of Work attached hereto;
3. Failure of Contractor to comply with any obligations under this Agreement, or to observe or perform any other material provision of this Agreement; or
4. Contractor's (a) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or 60 days after the filing; (b) making a general assignment for the benefit of creditors; (c) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or 60 days after the filing; (d) insolvency; or (e) failure, inability or admission in writing of its inability to pay its debts as they become due.

B. The City shall give written notice to Contractor of any default by specifying the nature of the event or deficiency giving rise to the default, the action required to cure the deficiency, if an action to cure is possible, and a date, which shall be not less than 30 calendar days from the mailing of the notice, by which such action to cure, if a cure is possible, must be undertaken. Contractor shall not be in default if Contractor cures such default within the specified cure period, or, if such default is not reasonably capable of cure within the specified period, Contractor begins to cure the default within the cure period and thereafter diligently pursues the cure to completion. Following any notice of an event of default, the City may suspend payments under this Agreement pending Contractor's cure of the specified breach. Upon an event of

default that has not been cured by Contractor, the City, in its discretion, may take any of the following actions:

1. Terminate this Agreement in whole or in part;
2. Suspend payments under this Agreement;
3. Demand immediate reimbursement of any funds disbursed under this Agreement;
4. Bring an action for equitable relief (i) seeking the specific performance by Contractor of the terms and conditions of the Agreement, and/or (ii) enjoining, abating, or preventing any violation of said terms and conditions, and/or (iii) seeking declaratory relief;
5. Bar Contractor from future funding by the City; and/or
6. Pursue any other remedy available at law or in equity.

22. Termination on Notice

The City may terminate this Agreement immediately with or without cause upon giving thirty (30) calendar days written notice to Contractor. Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on **June 30, 2025**.

23. Conflict of Interest

a. Contractor

The following protections against conflict of interest will be upheld:

- i. Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- iii. Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor.

- iv. Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Contractor shall exercise due diligence to ensure that no such official will receive such an interest.

- v. Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Contractor agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).

- vi. Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.

- vii. Contractor represents and warrants to the best of its present knowledge, that in addition to the State statutes, regulations, local ordinances, municipal code, and Charter provisions referenced in this section, Contractor has read and is aware of the City of Oakland Government Ethics Act (Oakland Municipal Code Chapter 2.25), including, without limitation, the provisions prohibiting Conflicts of Interest and Personal Gain set forth at OMC 2.25.040, and those prohibiting (a) the influencing of contracts with former employers and (b) nepotism, as set forth in OMC 2.25.070. Contractor agrees and acknowledges that Contractor shall adhere to the City of Oakland Government Ethics Act, to the extent Contractor is deemed a Public Servant thereunder.
- viii. Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

b. No Waiver

Nothing herein is intended to waive any applicable federal, state, or local conflict of interest law or regulation

c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state, and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, and/or (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.

24. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state, or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, mental or physical disability (including but not limited to Acquired-Immune Deficiency Syndrome (AIDS), and AIDS-Related Complex (ARC)), military or military veteran status, or any other legally-protected class. This nondiscrimination policy shall include, but not be limited

to, the following: employment, upgrading, promotion or failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b. Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, mental or physical disability (including by not limited to AIDS, and ARC), military or military veteran status, or any other legally-protected class.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall comply with the Americans with Disabilities Act and all other applicable federal, state, and local disability rights legislation.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Contractors are required to disclose any disciplinary or investigatory actions against the Contractor by the Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH), or the Office of Federal Contract Compliance Programs (OFCCP). Contractor agrees to disclose and has disclosed, any and all such disciplinary or investigatory actions in writing to the Project Manager. Failure to disclose such action prior to execution of this Agreement or any subsequent amendment shall be a basis for termination of the Agreement.

25. Local and Small Local Business Enterprise Program (L/SLBE)

Contractor shall comply with the City of Oakland's Local and Small Local Business Enterprise Program (L/SLBE). The City's current L/SLBE Program guidelines may be accessed via the following link:

https://cao-94612.s3.amazonaws.com/documents/LSLBE-Program-Guidelines_Revised.5.4.21.pdf

Contractor understands and agrees to the following:

- a. Preference Points – Preference points are awarded based on the level of local, small local and very small local business participation that is proposed by contractors during the competitive solicitation process.
- b. Maintaining Participation – As a condition of the award of this Contract, Contractor must achieve and maintain the levels of local, small local, or very small local business participation for which preference points were earned during the competitive solicitation process or the levels of participation agreed upon by the Parties during

negotiation of this Agreement. Failure to achieve and maintain the proposed levels of participation may result in the imposition of penalties as set forth in the above-referenced Local and Small Local Business Enterprise Program guidelines.

- c. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing **Schedule D, Ownership, Ethnicity, and Gender Questionnaire**, and **Schedule E, Project Consultant Team**, which shall be attached hereto and incorporated herein.

26. Living Wage Ordinance

If the contract amount of this Agreement is equal to or greater than \$25,000, Contractor must comply with the Oakland Living Wage Ordinance, Title 2, Chapter 2.28 of the Oakland Municipal Code. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to, among others, employees of service contractors (consultants) of the City. **Oakland employers are also subject to the City of Oakland Minimum Wage law (see next section) and must pay employees wages and provide benefits consistent with the Minimum Wage law or Oakland Living Wage Ordinance, whichever are greater.**

If applicable, Contractor certifies that it has submitted a completed Declaration of Compliance with the Living Wage Ordinance (Schedule N) to secure this Agreement, which is incorporated herein, and, unless specific exemptions apply or a waiver is granted, Contractor agrees that it must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation and Health Benefits – **Effective July 1st of each year, Contractor shall pay adjusted Living Wage rates**, dependent on whether health benefits are included. The current Living Wage Rates for each year can be found at <https://www.oaklandca.gov/departments/workplace-employment-standards>.

Contractor agrees to pay the rates as upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. Contractor shall provide proof that health benefits are in effect for those employees at the lower living wage rate no later than 30 days after execution of the Contract.

- b. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward the provision of the required 12 compensated days off. Ten uncompensated days off shall

be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.

- c. Federal Earned Income Credit - To inform employees that he or she may be eligible for Earned Income Credit (“EIC”) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist Contractor. Web sites include but are not limited to: <http://www.irs.gov> for current guidelines as prescribed by the Internal Revenue Service.
- d. Contractor shall provide to all employees written notice of its obligation to eligible employees under the City’s Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- e. Contractor shall provide all of the above required written notices and forms in English, Spanish or other languages spoken by a significant number of employees within 30 days of each employee’s start of work under or related to this Agreement.
- f. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay, and benefits for each of its employees. Contractor shall provide a copy of said list to the Department of Workplace and Enforcement Standards, on a quarterly basis, by March 31, June 30, September 30, and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in a penalty of five hundred dollars (\$500.00) for each day that the list remains outstanding (OMC Section 2.28.110.C). Contractor shall maintain employee payroll and related records for a period of three (3) years after expiration of the compliance period.
- g. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with all of the foregoing Living Wage provisions. Contractor shall include the above-referenced provisions in its subcontracts and by signature confirms subcontractor compliance.

27. Minimum Wage Ordinance

Oakland employers are subject to Oakland’s Minimum Wage Law, Chapter 5.92 of the Oakland Municipal Code, whereby Oakland employees must be paid the City’s current Minimum Wage rate. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law also requires paid sick leave for employees and payment of service charges collected for their services. **This contract is also subject to Oakland’s Living Wage Ordinance (see previous section) and must pay employees wages and provide benefits consistent with the City’s Living Wage Ordinance or the Minimum Wage Law, whichever are greater.** For further information, please visit the following website: <https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges>

28. Equal Benefits Ordinance

If the contract amount of this Agreement is equal to or greater than \$25,000, this Agreement is subject to the City's Equal Benefits Ordinance ("EBO"), Title 2, Chapter 2.32 of the Oakland Municipal Code and its implementing regulations, which prohibits the City from contracting with entities that discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees.

The EBO only applies to those portions of a contractor's operations that occur (1) within the City of Oakland; (2) on real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of the EBO shall not apply to subcontracts or subcontractors of any contractor.

If applicable, Contractor agrees to comply with the requirements of Oakland Municipal Code, Chapter 2.32, and agrees it has a duty to promptly provide to the City documents and information verifying its compliance.

29. City of Oakland Campaign Contribution Limits

If this Agreement requires Council approval, it is subject to the City's Campaign Reform Act, Title 3, Chapter 3.12 of the Oakland Municipal Code, and its implementing regulations. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of or termination of, contract negotiations. If applicable, Contractor certifies that it has completed a signed certification form (Schedule O, Acknowledgment of Campaign Contribution Limits) to secure this Agreement, incorporated herein, and agrees to comply with Oakland Municipal Code Chapter 2.32.

30. Nuclear Free Zone Ordinance

Contractor confirms that it has read and understood Ordinance No. 11478 C.M.S., titled "An Ordinance Declaring the City of Oakland a Nuclear Free Zone and Regulating Nuclear Weapons Work and City Contracts with and Investment in Nuclear Weapons Makers," which restricts the City from entering into professional service agreements with nuclear weapons makers unless an exemption applies. Under Ordinance No. 11478 C.M.S., it is the City's policy to minimize the expenditure of City funds on goods and services produced by nuclear weapons makers and Contractor is urged to comply with this policy in making purchases and subcontracts. Contractor agrees to comply with Ordinance No. 11478 C.M.S. in the provision of services under this Agreement and certifies that it is not a nuclear weapons maker.

31. Slavery Era Disclosure

Contractor confirms that it has read and understood the Slavery Era Disclosure Ordinance, Oakland Municipal Code Chapter 9.60, which requires contractors providing (1) insurance services or (2) financial services to the city of Oakland (including, but not limited to, any

bank in which the city deposits public funds and any investment managers), whether subject to a competitive bid or not, and (3) each textile, tobacco, railroad, shipping, rice and/or sugar company doing business with the city, including but not limited to, such businesses with a city franchise, to disclose information related to the legacy of slavery.

If applicable, Contractor certifies that it has completed a signed Slavery Era Disclosure Affidavit (Schedule S) to secure this Agreement, incorporated herein, and agrees to comply with Oakland Municipal Code Chapter 9.60.

32. Political Prohibition

Subject to applicable State and Federal laws, Contractor agree that moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

33. Religious Prohibition

Contractor understands and agrees that there shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of this Agreement.

34. Business Tax Certificate

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid for the duration of this Agreement.

35. 0

The funding for this Agreement is provided in full or in part by a Federal or State Grant to the City. As part of the terms of receiving the funds, the City is required to incorporate some of the terms into this Agreement and include certain reporting requirements. The incorporated terms and requirements are stated in **Exhibit 1 to the Scope of Work**, "State/Federal Funding Terms."

By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred, or otherwise excluded from participation in federal assistance programs. Contractor has submitted **Schedule Z**, Certification of Debarment and Suspension, attached hereto and incorporated by reference herein.

36. Abandonment/Termination of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the projects under this Agreement at any time. In such event, the City shall give Contractor thirty (30) days written notice of such abandonment and termination of Agreement. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Contractor shall have the right to expend a reasonable

amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve or reject all or any part of said proposed costs. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor.

Should the project or any portion thereof be abandoned, the City shall pay the Contractor for all services performed up to the effective date of termination due to abandonment in accordance with the terms of this Agreement.

37. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is: a) approved by resolution of the City Council if required by the Oakland City Charter, Oakland Municipal Code Title 2.04 or Oakland City Council Rules of Procedure, b) approved as to form and legality by the Office of the City Attorney, and c) signed by the City Administrator or his or her authorized designee.

38. Governing Law

This Agreement shall be governed by the laws of the State of California.

39. Notice

If either party shall desire or be required to give disclosures or notice to the other, such disclosure or notice shall be given in writing, via facsimile, email, or other electronic transmission and concurrently by prepaid U.S. certified or registered mail, addressed to the recipient as follows:

(City of Oakland)
City Administrator's Office
One Frank H Ogawa Plaza, 3rd Floor
Oakland, CA
Attn: Chantal Reynolds

Name of Contractor
Operation Dignity Inc.
318 Harrison Street, Ste. 302
Oakland, CA
Attn: Marguerite Bachand, CEO

Any party to this Agreement may change the name or address of representatives for the purpose of this Notice Section by providing written notice to all other parties ten (10) business days before the change is deemed effective.

40. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all

of the representations, covenants, and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any parties, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

41. Modification

Any modification of this Agreement will be effective only if it is in writing and signed by all parties to this Agreement.

42. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

43. Time of the Essence

Contractor agrees that time is of the essence in the performance of this Agreement.

44. Commencement, Completion, and Closeout

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing by the City and shall not constitute a waiver of rights the City may have under this Agreement.

If Contractor fails to complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, Contractor shall make a determination of any and all final costs due under this Agreement and shall submit a requisition to the City for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement). Contractor's

failure to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including, without limitation, any obligation for payment of work performed or payment of claims by Contractor.

45. Counterpart Signatures

This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same Contract. The parties shall be entitled to electronically sign and transmit this Contract (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the signing party or the party on whose behalf the document has been signed. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed Contract upon request.

46. Authority

The persons signing below represent and warrant that they have authority to bind their respective party, and all necessary approvals to sign on behalf of their respective party have been obtained.

47. Inconsistency

If there is any inconsistency between this Agreement and the attachments/exhibits hereto, the text of this main Agreement shall prevail.

[SIGNATURES ON NEXT PAGE]

City:

CITY OF OAKLAND,
a California municipal corporation

City Administrator's Office (Date)

Department Head (Date)

Approved for form and legality:

City Attorney's Office (Date)

Contractor:

OPERATION DIGNITY INC,
a California corporation No. C1946166

Signature (Date)

Print Name

Title

City Resolution No.

90358

Account No.: _____

Business License No. : _____

END OF PROFESSIONAL SERVICES AGREEMENT