OFFICE OF HAWAIIAN AFFAIRS

CONTRACT NUMBER _____

BETWEEN

OFFICE OF HAWAIIAN AFFAIRS

AND

[NAME OF CONTRACTOR]

SAMPLE

This Contract, executed and entered into as of this _____day of _____, 2017, by and between, the Office of Hawaiian Affairs ("OHA"), a body corporate under the Constitution of State of Hawaiʻi, by its Ka Pouhana, Chief Executive Officer ("CEO") and Head of Procurement Agency ("HOPA"), pursuant to the Chief Procurement Officer Delegation of Authority and Revised Operational Authority Delegation Hierarchy dated February 9, 2017, acting by and on behalf of the Board of Trustees, whose principal place of business and mailing address is 560 North Nimitz Highway, Suite 200, Honolulu, Hawaiʻi 96817, and [NAME OF CONTRACTOR] ("CONTRACTOR"), a [Type of Business i.e. Sole Proprietor, Limited Liability Partnership/Corporation, Non-Profit], by its [Position i.e. Executive Director], whose principal place of business and mailing address is [Contractor's Address], [City], Hawaiʻi [Zip Code], Sole Proprietor's Social Security No. XXX-XX-[_ _ _ _]; LLP/C/Non or For-Profit Federal Tax ID No. [_ _ - _ _ _ _ _ _ _].

W I T N E S S E T H:

WHEREAS, one of the purposes for which the OHA has been established is to better the conditions of Hawaiians as defined in Section 10-2, Hawaiʻi Revised Statutes ("HRS"); and

WHEREAS, the OHA was established to better the conditions of native Hawaiians and Hawaiians as defined in Hawaiʻi Revised Statues ("HRS") Sections 10-2, 10-4(4), 10-4(6) and 10-4(8), and other applicable law(s), as amended; and

WHEREAS, the expenditure of funds as proposed in this Contract are intended for the betterment of conditions of native Hawaiians and Hawaiians as set forth in Section 10-3(1) and (2), HRS and is consistent with the purpose for which these funds were appropriated; and

WHEREAS, the OHA is in need of [Description of PR];and

WHEREAS, the OHA has awarded this Contract through competitive sealed proposals

SAMPLE

submitted for [Solicitation No.] pursuant to Hawai‘i Revised Statutes as amended and its companion Hawai‘i Administrative Rules; and

WHEREAS, the CONTRACTOR has been evaluated as a responsible and responsive Offeror whose proposal is advantageous for the OHA, such evaluation factors as capacity, qualifications and resources to perform the terms and conditions agreed to under this Contract.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by the OHA, provide all the goods and services set forth in Attachment – S1 which is hereby made a part of this Contract.

2. Time of Performance. The performance required of the CONTRACTOR under this Contract shall be completed in accordance with the time schedule set forth in Attachment – S2 which is hereby made a part of this Contract.

3. Compensation. The CONTRACTOR shall be compensated according to the Compensation provision set forth in Attachment – S3 which is hereby made a part of this Contract.

4. Standards of Conduct Declaration. The Standards of Conduct Declaration of the CONTRACTOR is attached and is made a part of this Contract.

5. CONTRACTOR’s Acknowledgment Statement. The CONTRACTOR’s Acknowledgment Statement is attached and is made a part of this Contract.

6. Other Terms and Conditions. The General Conditions and any Special Conditions are attached hereto and made a part of this Contract. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control.

7. Notices. Any written notice required to be given by any party to this

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Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the CEO shall be sent to the CEO's business and mailing address as set forth in the first paragraph of this Contract. Notice to the CONTRACTOR shall be sent to the CONTRACTOR's business and mailing address as set forth in the first paragraph of this Contract. A notice shall be deemed to have been received THREE (3) days after mailing or at the time or actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the OHA in writing of any change of address.

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IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the dates below, to be effective as of the date first above written.

OFFICE OF HAWAIIAN AFFAIRS

Date: _____, 2017

By_____
KAMANA'OPONO M. CRABBE, Ph. D
Its Ka Pouhana, Chief Executive Officer

"OHA"

[NAME OF CONTRACTOR]

Date: _____, 2017

By _____
[NAME OF SIGNING AUTHORITY]
Its [Position]

"CONTRACTOR"

APPROVED AS TO FORM:

By_____
ALBERT TIBERI
Its Ka Paepae Puka, Senior Legal Counsel

Date: _____, 2017

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CONTRACTOR'S ACKNOWLEDGMENT

STATE OF HAWAI‘I)
) SS.
CITY AND COUNTY OF _____)

On this _____ day of _____, 2017, before me personally appeared [NAME OF SIGNING AUTHORITY], to me personally known, who, being by me duly sworn, did say that such person is the [Position] of [NAME OF CONTRACTOR], the CONTRACTOR, named in the foregoing instrument, and that he/she/they is/are authorized to sign said instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said instrument as the free act and deed of the CONTRACTOR.

_____
(Notary signature)

_____
(print name) Notary Public, State of Hawai‘i

(Official Stamp or Seal)

My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:
_____

_____

☐ Doc. Date: _____ OR ☐ Undated at time of notarization

No. of Pages: _____ Jurisdiction: _____ Circuit
(in which notary act is performed)

_____ _____
Signature of Notary Date of notarization

_____
Printed Name of Notary

(Official Stamp or Seal)

SAMPLE

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

*"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty percent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State or OHA, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges.

On behalf of **[NAME OF CONTRACTOR]**, CONTRACTOR, the undersigned does declare, under penalty of perjury, as follows:

1. CONTRACTOR __(is) (is not)__ a legislator or an employee or a business in which a legislator or an employee has a controlling interest.*

2. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of the Agreement, if the legislator or employee had been involved in the development or award of the Agreement.

3. CONTRACTOR has not been assisted or represented for a fee or other compensation in the award of this Agreement by a State or OHA employee or, in the case of the Legislature, by a legislator.

4. CONTRACTOR has not been represented or assisted personally on matters related to the Agreement by a person who has been an employee of the State or OHA within the preceding two (2) years and who participated while in state office or employment on the matter with which the Agreement is directly concerned.

5. CONTRACTOR has not been represented or assisted on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, has been a State or OHA employee, or in the case of the Legislature, a legislator.

6. CONTRACTOR has not been represented or assisted in the award of this Agreement for a fee or other consideration by an individual who, 1) within the past twelve (12) months, served as a State or OHA employee or in the case of the Legislature, a legislator, and b) participated while an employee or legislator on matters related to this Agreement.

CONTRACTOR understands that the Agreement to which this document is attached is voidable on behalf of the State or OHA if this Agreement was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the State or OHA.

CONTRACTOR

By:_____

Title:_____

Date:_____

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ATTACHMENT - S1

SCOPE OF SERVICES

Project: [Project Name]
Description: [Description of Project]
Location: TMK No: [NO.]

The CONTRACTOR shall provide and perform the services set forth below in a satisfactory and proper manner as determined by the OHA, and in accordance with the terms and conditions of this Contract. The services shall include, but may not be limited to, the following:

A. The following documents, and any amendments or addenda thereto, comprise the Contract between the parties and are fully a part of this Contract governing the work to be performed by the CONTRACTOR for the [NAME OF PROJECT]: (1) CONTRACTOR's accepted proposal dated [Date of Proposal Submitted]; (2) Request for Proposal No. [No. of RFP]; and (3) OHA Non-Grant General Conditions effective January 28, 2016; and (4) this Contract. These documents collectively comprise the "Contract".

B. [Description of scope of services]

C. The Contract Coordinator ("Coordinator") will act as the contract monitor and principal liaison between the CONTRACTOR and the OHA. The Coordinator shall assist in resolving policy questions expediting decisions and the review of the work performed. See Attachment – S4 General Conditions Page 2, Number 1, Coordination of Reports.

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ATTACHMENT - S2

TIME OF PERFORMANCE

Project: [Project Name]
Description: [Description of Project]
Location: TMK No: [NO.]

A. The CONTRACTOR shall render the services required under this Contract from [Date] through and including [Date] unless this Contract is sooner terminated.

B. The manner in which the services are to be performed and the specific hours to be worked by the CONTRACTOR shall be determined by the CONTRACTOR, limited, however, to the maximum amount payable as specified in this Contract.

C. Option to Extend: The Time of Performance of this Contract may be extended at negotiated fees, subject to the availability of funds, upon mutual agreement in writing prior to the end of the current Contract. It is understood that a Supplemental Contract (Amendment) will be executed by both the CONTRACTOR and the OHA to exercise any and all extensions.

Initial term of Contract:	[NO. OF MONTHS WRITTEN OUT] (#) months
Length of each extension:	Up to [NO. OF MONTHS WRITTEN OUT] (#) months, may be less than [NO. OF MONTHS WRITTEN OUT] (#) months when it is in the best interest of the OHA
Maximum length of Contract:	Not to exceed [NO. OF MONTHS WRITTEN OUT] (#) months

SAMPLE

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ATTACHMENT - S3

COMPENSATION

Project: [Project Name]
Description: [Description of Project]
Location: TMK No: [NO.]

A. The OHA agrees to pay the CONTRACTOR, subject to the availability of funds, a maximum amount not to exceed, [DOLLAR AMOUNT WRITTEN OUT AND NO/100 DOLLARS] ($[AMOUNT]) inclusive of all actual reasonable ordinary necessary costs and expenses, including general excise tax currently at the rate of [4.712% (for Oahu only) or 4.166% (for neighbor islands)], for services satisfactorily rendered under this Contract.

B. Compensation shall be paid pursuant to the schedule set forth below and upon presentment of invoice and satisfactory performance of the work described in ATTACHMENT – S1 SCOPE OF SERVICES and shall be approved by the OHA Contract Coordinator. The Coordinator's written approval shall be required before incurring any exceptional cost and/or expenses. Compensation shall be paid in the following manner:

Payment Number	Period Due	Amount
1	[Date] to [Date]	$[AMOUNT]
2	[Date] to [Date]	$[AMOUNT]
3	[Date] to [Date]	$[AMOUNT]
Total		$[AMOUNT]

PAYMENT SCHEDULE

[Period]
[Date] to [Date] **PAYMENT AMOUNT: $**

Deliverables:

[Period]
[Date] to [Date] **PAYMENT AMOUNT: $**

Deliverables:

SAMPLE

[Period]
[Date] to [Date] **PAYMENT AMOUNT: $**

Deliverables:

[Date] (Final Report Due for Period [Date] to [Date]) **FINAL PAYMENT: $**

TOTAL PAYMENTS: $

C. The OHA shall retain TEN PERCENT (10%) equal to [DOLLAR AMOUNT WRITTEN OUT AND NO/100 DOLLARS] ($[AMOUNT]), including general excise tax currently at the rate of [4.712% (for Oahu only) or 4.166% (for neighbor islands)], of the total Contract amount as the final payment under this Contract. Payment of the retained amount shall be made upon the completion and approval by the OHA of deliverables as stated in the payment schedule below.

D. Said withheld amount shall be subject to the CONTRACTOR's satisfactory reconciliation and submittal of all reports and tax clearances from the Director of Taxation and the Internal Revenue Service. Any debt owed to the State Department of Taxation shall be offset first. The CONTRACTOR shall still be required to submit copies of valid tax clearances to the OHA within THIRTY (30) days of the termination date of this Contract. A certificate of vendor compliance issued by the Hawaii Compliance Express may be submitted in lieu of the tax clearance certificate.

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ATTACHMENT - S5

SPECIAL CONDITIONS

Project: [Project Name]
Description: [Description of Project]
Location: TMK No: [NO.]

A. OHA Contract No. _____ includes the following OHA Right of Entry ("ROE") which is attached hereto as Exhibit 1, and incorporated herein by reference shall be a part of the Contract between OHA and the CONTRACTOR.

B. Exhibit 1 ROE between OHA and the CONTRACTOR shall govern the services provided on [NAME OF PROJECT].

C. In the event of a conflict between the Contract and the ROE Exhibit 1, the Roe Exhibit 1 shall prevail.

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