



Oakland Housing  
Authority

September 30, 2019

Gentlemen/Ladies:

**SUBJECT: RFQ No. 19-013 Seismic Retrofit & Soft Story Evaluation**

The Oakland Housing Authority ("the Authority") invites proposals for Seismic Retrofit & Soft Story Evaluation.

**Proposals will be accepted on the first floor at 1805 Harrison Street, Oakland, CA until 10:00 a.m. (local time) on October 14, 2019.** Proposals received after 10:00 a.m. on October 14, 2019 will be rejected without consideration.

Questions of a procedural nature may be directed to Kimberly Maldonado at (510) 587-2123.

We look forward to receiving your proposal.

Sincerely,

A handwritten signature in blue ink, appearing to be "Eric Johnson", written over a horizontal line.

Eric Johnson  
Executive Director  
Oakland Housing Authority  
1619 Harrison Street, Oakland, CA 94612



Oakland Housing  
Authority

## REQUEST FOR QUALIFICATIONS

(RFQ) #19-013

### Seismic Retrofit & Soft Story Evaluation Services

<b>RFQ Issued</b>	September 30, 2019
<b>Questions Due</b>	October 3, 2019
<b>Addendum Issued</b> <i>(if applicable)</i>	October 8, 2019
<b>Proposal Due</b>	October 14, 2019

**Oakland Housing Authority (OHA)**  
**Contract Compliance & General Services (CCGS) Department**  
**1805 Harrison Street**  
**Oakland, CA 94612**  
**e-mail: [CCGS@oakha.org](mailto:CCGS@oakha.org)**

**Contact person for the above RFQ:**  
**[Kimberly Maldonado: 510-587-2123](mailto:Kimberly.Maldonado@oakha.org)**

**REQUEST FOR QUALIFICATIONS (RFQ) # 19-013**  
**Seismic Retrofit and Soft Story Evaluation Services**

**TABLE OF CONTENTS**

<b>1. General Information .....</b>	<b>4</b>
1.1 RFQ Introduction .....	4
1.2 Oakland Housing Authority Reservation of Rights.....	4
1.3 Oakland Housing Authority Background and Information .....	5
<b>2. Minimum Requirements .....</b>	<b>5</b>
<b>3. Scope of Work .....</b>	<b>5</b>
3.1 Description of Services .....	5
3.2 Timeline of Services .....	6
<b>4. Proposal Submission Requirements .....</b>	<b>6</b>
4.1 Response Format .....	7
A. Cover Letter .....	7
B. Project Approach .....	7
C. Scope of Services.....	7
D. Schedule .....	7
E. Examples of Previous Work .....	7
F. Staffing and Project Organization.....	7
G. References .....	7
H. Certifications and Attachments .....	8
4.2 Required Forms/Certifications.....	8
A. Statement of Qualifications.....	8
B. Profile and Certification Form .....	8
C. HUD 5369-C Form .....	8
D. Section 3 Business Certification and Action Plan.....	8
E. Addendum Acknowledgment Form.....	8
<b>5. Selection Process .....</b>	<b>9</b>
5.1 RFQ Timeline.....	9
5.2 Questions/Answers.....	9
5.3 Proposal Due Date.....	10
5.4 Evaluation Criteria.....	10
5.5 Selection Process .....	11
<b>6. Contract Requirements .....</b>	<b>14</b>
6.1 Contractor Requirements.....	14
6.2 Insurance Requirements.....	14
6.3 Contract Award .....	14
6.4 Contract Conditions .....	15
6.5 Contract Terms .....	16
6.6 Contractor's Breach .....	16
6.7 Remedies of Breach .....	16

<b>Documents (in the order of the RFQ package)</b>		<b>MUST be submitted with Proposal</b>
	PROPOSAL SUBMISSION REQUIREMENTS (in Section 4 of RFQ)	
	<p><b>1. Response Format</b></p> <ul style="list-style-type: none"> <li>A. Cover Letter</li> <li>B. Project Approach</li> <li>C. Scope of Services</li> <li>D. Schedule</li> <li>E. Examples of Previous Work</li> <li>F. Staffing and Project Organization</li> <li>G. References</li> <li>H. Certifications and Attachments</li> </ul> <p><b>2. Required Forms/Certifications</b></p> <ul style="list-style-type: none"> <li>A. Statement of Qualifications (Attachment E)</li> <li>B. Profile and Certification Form (Attachment F)</li> <li>C. HUD-5369-C Form (Attachment H)</li> <li>D. Section 3 Business Certification and Action Plan (Attachment I)</li> <li>E. Sample Addendum Acknowledgement Form (Attachment J - if applicable)</li> </ul>	✓
	ATTACHMENTS – EXHIBITS/ FORMS/ DOCUMENTS	
A	Oakland Housing Authority List of Building Structures for Seismic Evaluation	
B	Notice of Mandatory Seismic Retrofit	
C	City of Oakland Ordinance No. 13516, dated January 22, 2019	
D	City of Oakland Technical Bulletin 15.27-1	
E	Statement of Qualifications	✓
F	Profile and Certification Form	✓
G	HUD 5369-B, Instructions to Offerors, Non-Construction	
H	HUD 5369-C, Certification and Representation of Offerors, Non-Construction Contracts	✓

<b>Documents (in the order of the RFQ package)</b>		<b>MUST be submitted with Proposal</b>
	<b>ATTACHMENTS – EXHIBITS/ FORMS/ DOCUMENTS</b>	
I	Contractor's Summary Guide to Section 3 Compliance with Section 3 Business Certification and Action Plan	✓
J	Addendum Acknowledgement form (if applicable)	✓
K	OHA Insurance Requirements	
L	OHA Sample Services Contract	
M	HUD-51915, Model Form of Agreement Between Owner and Design Professional	
N	OHA Economic Opportunities Policy – Section 3 Requirements	
O	Vendor Protest and Claims Procedures	

## **1. GENERAL INFORMATION**

### **1.1. RFQ Introduction**

The Oakland Housing Authority (the “Authority” or “OHA”) is soliciting qualifications for an architect, engineer, architect and engineer teams, or combination of firms (the “Design Professional”) to assist in the seismic and soft story evaluation of OHA buildings. OHA received a Notice of Mandatory Seismic Retrofit from the City of Oakland identifying six (6) properties with various compliance tiers per City of Oakland Ordinance 13516, dated January 22, 2019.

It is the Authority’s goal to maintain a list of qualified Design Professionals that can assist the Authority’s needs in addressing projects that would need engineering service support.

In keeping with its mandate to provide efficient and effective services, the Authority is soliciting responses from qualified and insured individuals or firms to provide services as described under Section 2 - Scope of Work. All responses submitted for this solicitation must conform to all of the requirements and specifications outlined within this document, and any designated attachments, in its entirety.

For further information and/or updates on this bid or any other Oakland Housing Authority project, you may go to the Authority website [www.oakha.org](http://www.oakha.org) Select “Business Opportunities”, “Procurement”, “Current Bid Openings” and “Active Bids”.

### **1.2 Oakland Housing Authority Reservation of Rights**

- The Authority reserves the right to reject any or all responses, to waive any informality in the RFQ process, or to terminate the RFQ process at any time, if deemed by the Authority to be in its best interests.
- The Authority reserves the right not to award a contract pursuant to this RFQ.
- The Authority reserves the right to terminate a contract awarded pursuant to this RFQ, at any time, for its convenience.
- The Authority reserves the right to determine the days, hours, and locations that the successful Respondent(s) shall provide the services called for in this RFQ.
- The Authority reserves the right to negotiate the fees proposed by the Respondent entity.
- The Authority reserves the right to reject and not consider any response that does not meet the requirements of this RFQ, including but not necessarily limited to incomplete responses and/or responses offering alternate or non-requested services.
- The Authority shall reserve the right at any time during the RFQ or contract process to prohibit any further participation by a Responder or reject any response submitted that does not conform to any of the requirements detailed herein.
- The Authority is subject to the disclosure requirements of the California Public Records Act. This act will apply to all submitted responses to the Authority.

### **1.3 Oakland Housing Authority Background and Information**

The Oakland Housing Authority was established on April 28, 1938 to provide low-income residents of the City of Oakland with access to low-cost housing. Currently, the Authority provides Public Housing units at multiple sites within the city limits for large developments, mixed-finance partnerships, and scattered sites.

The Authority has created a number of non-profit affordable housing affiliates to develop and operate affordable housing. The Authority is engaged in affordable housing development with a number of active sites in development. Development activities are carried out directly and through a variety of affiliates and partnerships.

The Authority is federally funded and regulated primarily under the U.S. Housing Act of 1937, as amended. The majority of our funding is governed by the U.S. Department of Housing and Urban Development (HUD) regulations. The Authority was selected to be a "Moving to Work" (MTW) housing authority by HUD and enter into an MTW agreement in 2004. The agreement has since been amended extending the MTW agreement to June 30, 2028.

The Authority is governed by a seven-member Board of Commissioners appointed by the Mayor of the City of Oakland, with the approval of the Oakland City Council. The Executive Director, who reports to the Board of Commissioners, has a budgeted staff of approximately 371 employees in four major divisions: The Office of the Executive Director, including the Departments of Human Resources and Police Services, the Office of Real Estate Development, the Office of Finance and Program Administration, and the Office of Property Operations.

The Authority's employees are housed at six separate facilities, all located within the City of Oakland: 1805 Harrison Street, 1801 Harrison Street, 1540 Webster Street, 1180 25<sup>th</sup> Avenue, 935 Union Street, and 1327 65th Avenue.

## **2. MINIMUM REQUIREMENTS**

The Responder must be fully qualified to perform the services described herein and must be a licensed Architect or Engineer in the State of California. All consultants must be licensed in the State of California in their discipline. Responders must not be listed as an excluded entity on the U.S. Government's System for Award Management.

## **3. SCOPE OF WORK**

### **3.1 Description of Services**

The awarded Design Professional will be responsible for evaluating OHA buildings to determine seismic viability and/or possible soft story structure categorization. Relevant documents for current building evaluations can be found in Attachment A and Attachment B. Additional OHA buildings may be part of future evaluations.

In general the Authority is soliciting qualified consulting services to perform the following:

- a. Site visits of properties
- b. Compare actual building condition to as-built drawings
- c. Make determination if any of the buildings can be exempted from the City of Oakland Ordinance 13516, dated January 22, 2019 (Attachment C)
- d. Prepare exemption forms for appropriate buildings to be submitted to the City of Oakland
- e. Prepare evaluation and schematic retrofit report for non-exempt buildings using the guidance/template from the City of Oakland Technical Bulletin 15-27-1 (Attachment D)
- f. Complete pre-construction/retrofit plan reviews
- g. Complete post-construction/retrofit plan sign-offs
- h. Complete and file any relevant or necessary documents with the City of Oakland
- i. Work with related professionals and OHA staff

### **3.2 Timeline of Services**

The awarded Design Professional must be able to complete evaluations for all or a combination of the buildings listed in Attachment A and B by January 31, 2020. Any other OHA buildings not listed as part of Attachment A and B, but that require evaluations according to the above scope, shall be given a deliverables timeline at the time of request for services based on the list of qualifiers obtained through this RFQ.

## **4. PROPOSAL SUBMISSION REQUIREMENTS**

To properly evaluate each offer received by the Authority, all responses submitted for this RFQ must be formatted in accordance with the "Response Format" described in the section below. None of the proposed services may conflict with any requirement the Authority has published herein or has issued by addendum.

The Authority shall not be liable for any expense incurred in relation to the preparation or submittal of responses. Expenses include, but are not limited to, expenses preparing the response or related information in this RFQ; negotiations with the Authority on any matter related to the response; and costs associated with interviews, meetings, travel or presentations. Additionally, the Authority shall not be liable for expenses incurred as a result of the Authority's rejection of any response.

The Responder(s) selected must be fully qualified to perform the services described above, must possess the appropriate business license, and must also comply with all contract requirements.

#### 4.1 Response Format

To provide objective criteria that can be used in determining various Responders abilities, please address the following items in the order presented.

Submissions must clearly address all of the requirements outlined in the Request for Qualifications (RFQ) including the maximum page limit for each category. A company qualification brochure data may be added as an attachment at the end of the Proposal.

The Authority requests the following items be combined into a single package. The Responder may include any other general information that the Responder believes is appropriate to assist the Authority in its evaluation.

- A. **Cover Letter** – Include the project name and RFQ number, date, identity of the lead firm submitting the response and all contact information for the primary contact person during this RFQ process.
- B. **Project Approach** – The Responder should provide a brief narrative that discusses their proposed approach to seismic and soft story evaluation services. (Limit: 2 pages)
- C. **Scope of Services** – The Responder should detail the services to be provided. Tasks should be organized around specific project deliverables. (Limit: 3 pages)
- D. **Schedule** – The Responder should develop a timetable for project deliverables that is response to the Authority's needs. The Authority anticipates that the selected Design Professional will complete the assessment of the buildings listed in Attachment A within 90 calendar days of signing a contract. (Limit: 2 pages)
- E. **Examples of Previous Work** – The Responder should provide a list of three (3) or more former or current clients, including Public Housing Authorities, for which the Responder has performed similar or like services to those being proposed herein. The listing shall, at a minimum, include: the client's name; contact name; telephone number; email address; a brief description and scope of the service(s); and the dates the services were provided.
- F. **Staffing and Project Organization** – The Responder should describe the role of each team member, and describe the project organization in a narrative format. Resumes for each key team member and sub-consultant, copies of any licenses for architects or engineers, and preprinted, standard descriptive material should be provided, if relevant. (Limit: 4 pages)
- G. **References** – The Responder must provide references with contact information on each example of previous work. By submitting a response to this RFQ, each

Responder agrees that the Authority may contact any company, person, or client to whom references are made within the response.

- H. Certifications and Attachments** – All submitted materials should be in 8 ½” x 11” format, preferably in portrait orientation, bound in a ring binder. Tabbed dividers should separate and identify the response items described above and should be titled as indicated. Submissions must include all of the above items.

#### **4.2 Required Forms/Certifications**

The following forms must be submitted with your proposal in the following order:

- A. Statement of Qualifications**  
The form *Qualifications Statement* must be completed and signed (Attachment E).
- B. Profile and Certification Form**  
The form *Profile and Certification Form* must be completed and signed (Attachment F).
- C. HUD-5369-C Form**  
The HUD *Certifications and Representations of Offerors – Non-Construction Contracts* form must be completed and signed (Attachment H).
- D. Contractor’s Summary Guide to Section 3 Compliance and Business Certification and Action Plan**  
The *Section 3 Business Certification and Action Plan* must be completed and signed. (Attachment I).

The Authority expects the selected Design Professional(s) to make a good faith effort to comply with the Section 3 Policy. Refer to the attachment titled “Section 3 Requirements – Oakland Housing Authority Economic Opportunities Policy” in this RFQ. Responder must describe proposed compliance with Section 3 of the Housing Act of 1968, as amended, regarding the provision of training and employment opportunities for low-income persons, with priority to residents of the Oakland Housing Authority public housing, and a certified statement that the firm will make a good effort to comply with the Section 3 policy. The Authority Project Manager and Contract Compliance staff will monitor Design Professional’s compliance with Section 3 requirements.

- E. Addendum Acknowledgement Form (if applicable)**  
All applicable *Addendum Acknowledgement Form(s)* must be submitted with the proposal (Attachment J).

## 5. SELECTION PROCESS

### 5.1 RFQ Timeline

The following are proposed dates relating to this selection process:

September 30, 2019	RFQ Issued
<b>October 3, 2019</b>	<b>Questions in writing via email, due by 10:00 AM PDT</b>
October 8, 2019	Responses to questions and Addendum issued and posted on OHA website (if necessary) by 5:00 PM PDT
<b>October 14, 2019</b>	<b>Responses due by 10:00 AM PDT.</b> To be submitted to Contract Compliance and General Services (CCGS) at 1805 Harrison Street, Oakland CA 94612. Proposals must be delivered by this deadline; postmarks will <b>NOT</b> be accepted.

### 5.2 Questions/Answers

All questions must be submitted in writing via E-mail no later than **10:00 AM PDT, October 3, 2019**. All questions will be answered in an addendum issued and posted on the Oakland Housing Authority website by **5:00 PM PDT October 8, 2019** if necessary. On the Oakland Housing Authority website [www.oakha.org](http://www.oakha.org) Select "Business Opportunities", "Procurement", "Current Bid Openings" and "Active Bids".

No questions will be responded to after the question and answer period has expired.

Questions are to be submitted to:

**Oakland Housing Authority**  
**Contract Compliance & General Services Office**  
E-mail: [CCGS@oakha.org](mailto:CCGS@oakha.org)

### Addendum

CCGS will respond to all inquiries in writing, by addendum, and will release the information to all prospective Responders. During the RFQ solicitation process, CCGS will NOT conduct any *ex parte* conversations (substantive conversation — "substantive" meaning, any discussion or exchange between any Oakland Housing Authority staff and a prospective Responder that does or may contain fundamental or relevant information regarding any portion of the RFQ or solicitation process, when other prospective Responders are not present) that may give one prospective Responder an advantage over other prospective Responders. This will not bar prospective Responders from contacting CCGS; however, CCGS will limit

communication with prospective Responders to information already contained in the solicitation documents.

CCGS will not provide verbal responses to any inquiries made by prospective Responders. Instead, CCGS staff will direct Responders to submit all questions in writing and will provide a copy of the question and answer to all Responders through a written addendum.

### **5.3 Response Due Date**

Responses to this solicitation will be accepted in Oakland Housing Authority's Contract Compliance and General Services (CCGS) Office until **10:00 AM PDT** on **October 14, 2019.**

Responders must provide **one (1) original copy, clearly marked "ORIGINAL," and four (4) copies clearly marked "COPY,"** of the required submission. These must be submitted in envelopes or boxes **marked "RFQ #19-013 Seismic Retrofit and Soft Story Evaluation Services"**.

Late responses will not be accepted; postmarks will not be considered in determining if a response is submitted on time. Responses will be date and time stamped by CCGS staff and a receipt provided for the response.

Responses will be accepted at:

**Contract Compliance & General Services Office  
Oakland Housing Authority  
1805 Harrison Street  
Oakland, CA 94612**

### **Submission Responsibilities**

It shall be the responsibility of each Responder to be aware of and to abide by all dates, times, conditions, requirements, and specifications set forth within all applicable documents issued by the Authority, including the RFQ document, the documents listed within Section 4.2, and any addenda and required attachments submitted by the Responder. By virtue of completing, signing, and submitting the completed documents, the Responder is stating his/her agreement to comply with the all conditions and requirements set forth within those documents. Written notice from the Responder not authorized in writing by CCGS to exclude any of the Authority requirements contained within the documents may cause that Responder to not be considered for award.

### **5.4 Evaluation Criteria**

The following criteria will be used to evaluate all responses:

Points will be assigned to each response for all weighted areas. The evaluation team will make a recommendation to the Authority's Board of Commissioners. Final

approval will be made by the Board of Commissioners. **Total points possible: 100.**

Award of contract, if made, will be to the Responder(s) that receives the highest overall number of points in accordance with the stated evaluation criteria.

A description of the required Response Submission Format is set out at Section 4.1 – Response Format.

No.	Criteria	Points
1.	<b>Experience:</b> Responders demonstrated experience in providing consulting and services for seismic retrofitting and soft story evaluation as described in the Scope.	30
2.	<b>Qualifications of Staff:</b> Capacity to provide professional services in a timely and quality manner as evidenced by past performance.	30
3.	<b>Regulatory Knowledge:</b> Knowledge of applicable regulations, codes, documents, and permit requirements.	15
4.	<b>Project Approach:</b> Relevance of Responders approach and narrative summary of delivering anticipated services	25
	<b>Total</b>	<b>100</b>

The most qualified Responder(s) will be selected based on the above criteria; subject to negotiation of a fair and reasonable price.

### 5.5 Selection Process

The Authority will conduct the evaluation process. All responses will be reviewed for completeness and responsiveness. During the evaluation process, the Authority reserves the right to request clarification or additional information from individual respondents and to request some or all respondents to make presentations to Authority staff.

Each response will be independently analyzed by members of an evaluation team. The evaluations team will analyze how the Responders qualifications, experience, and capabilities meet the Authority’s needs. The Authority may require the Responder to submit additional materials to supplement its proposal. The selection will be the sole responsibility of the Authority. The Authority reserves the right to

reject any and all responses, and shall select a Design Professional based on the most advantageous conditions for the Authority.

**A. Initial Evaluation for Responsiveness**

Each response received will first be evaluated for responsiveness (e.g., meets the minimum of the published requirements). The Authority reserves the right to reject any responses deemed by the Authority not minimally responsive and to waive any minor informalities it deems so. The Authority will notify such firms in writing of any such rejection.

**B. Evaluation Committee**

Internally, an evaluation packet will be prepared for each evaluator. The Authority anticipates that it will select a minimum of three people to serve on a committee to evaluate each of the responsive "hard copy" responses submitted for this RFQ.

**Restrictions**

All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a response entity will be excluded from participation on the evaluation committee. Similarly, all persons having ownership interest in and/or contract with a response entity will be excluded from participation on the evaluation committee.

PLEASE NOTE: No Responder shall be informed at any time during or after the RFQ process as to the identity of any evaluation committee member. If, by chance, a Responder does become aware of the identity of such person(s), he/she SHALL NOT make any attempt to contact or discuss with such person anything related to this RFQ.

As indicated in this document, the designated CCGS staff member is the only person at the Authority that the Responders shall contact pertaining to this RFQ. Failure to abide by this requirement may (and most likely will) cause such proposer(s) to be eliminated from consideration for award.

**C. Evaluation**

The appointed evaluation committee shall evaluate the complete responses submitted and award points based on Section 5.4 - Evaluation Criteria.

The Authority will, at its discretion, contact one or more of the provided References for the Responders deemed to be within the competitive range. Any negative References will be taken into consideration before proceeding with a final approval by the Board of Commissioners.

**Oral Interviews**

The Responders that are determined to be the most qualified applicants may be invited for an interview. All applicants invited to participate in the oral interviews will be ranked after the interview process.

Upon final completion of the RFQ evaluation process, the evaluation committee will forward the completed evaluations to the CCGS Contracting Officer.

**D. Selection of Design Professional(s)**

As a result of the RFQ evaluation process, the Authority will place up to the top seven (7) rated Responders on a list of qualified Design Professionals. The Authority will conduct negotiations with any of the Design Professionals, as needed, to reach a final agreement on a fair and reasonable price to perform the activities outlined in Section 3 – Scope of Work.

The successful Design Professionals who are included on the qualified list of up to the top seven (7) rated responses are not guaranteed that a contract will be executed for any of the projects or tasks listed in Section 3 – Scope of Work.

Contracts will be awarded based upon assignment and availability at the appropriate time.

No minimum or maximum amount of work will be guaranteed.

**E. Potential “Competitive Range” and “Best and Finals” Negotiations**

The Authority reserves the right to conduct “Best and Finals” Negotiations, which may include oral interviews with all firms deemed to be in the competitive range. Any Responder deemed not to be in the competitive range shall be notified of such, in writing, by the Authority in as timely a manner as possible, but in no case will it be longer than 10 days after the beginning of such negotiations with the firms deemed to be in the competitive range.

**1. Determination of Top Ranked Proposer**

Typically all points are awarded by the evaluation committee. The committee’s scores (points) will determine the final ranking. The final ranking is then typically forwarded by CCGS to the Executive Director for approval. If the evaluation was performed to the satisfaction of the Executive Director, the final ranking may be forwarded to the Housing Authority Board of Commissioners (BOC) at a scheduled meeting for approval. Contract negotiations may, at the Authority's option, be conducted prior to or after the BOC approval.

**2. Notice of Results of Evaluation**

Upon completion of the evaluation and internal approval processes (even if the contract has not yet been awarded or board approval is pending), all proposers will receive, by e-mail, a Notice of (tentative) Results of Evaluation.

## **6. CONTRACT REQUIREMENTS**

### **6.1 Contractor Requirements**

The Design Professional(s) selected must be fully qualified to perform the services described above.

In addition, as the work is funded with U.S. Department of Housing and Urban Development (HUD) funds, any required documents generated by the Proposer and / or the OHA must comply with all applicable HUD regulations specified in HUD-51915 Model Form of Agreement Between Owner and Design Professional. The Contractor must also comply with all Authority contract requirements.

All work performed pursuant to this RFQ must conform to, and comply with, all applicable local, state and federal codes, statutes, laws, and regulations.

### **6.2 Insurance Requirements**

Prior to award, the successful Responder(s) will be required to provide the proper license documents and insurance certificates. The selected Responder(s) will be required to comply with Oakland Housing Authority's insurance requirements attached hereto. (Attachment K)

#### **Indemnification**

The Contractor must expressly agree to defend, hold harmless and indemnify Oakland Housing Authority, its commissioners, officers, agents and employees, of and from any claims, loss, damage, injury, actions, causes of action and liability, including attorneys' fees arising out of or connected with the Contractor's operations or performance under the resultant contract.

#### **Additional Insured Party**

As a condition of the contract, Contractor will be required to provide a valid certificate of insurance and to submit copies of the insurance certificates naming the Authority as an additional insured party. The insurance policies must provide a 30-day notice of cancellation and be primary to any other insurance carried by the Authority.

### **6.3 Contract Award**

#### **A. Negotiations**

Once responses have been evaluated and ranked, the Authority will use the contract negotiation process to obtain the most highly qualified Responder(s) at a fair and mutually agreed-to price. The proposed contract will include a Scope of Services and a Fee-Schedule including an hourly rate schedule, administrative fees and expenses.

The Authority reserves the right to enter into discussions with any Responder whose RFQ submission is deemed most advantageous and in the Authority's best interest for the purpose of negotiations. The Authority reserves the right to enter into negotiations with any responsible and responsive consultant within the competitive range without the need to repeat the formal solicitation process.

The Authority reserves the right to award without discussions.

**B. Meetings**

Once the contract is awarded, the Contractor will meet with the Oakland Housing Authority key staff to discuss the needs, methods, and timeline for services.

**C. Contract Award Procedure**

If a contract is awarded pursuant to this RFQ, the following detailed procedures will be followed:

By completing, executing and submitting a response, the Responder is thereby agreeing to abide by all terms and conditions pertaining to this RFQ as issued by the Authority, including the OHA Services Contract (Attachment L) and the HUD-51915 (Attachment M) unless amendments are authorized in writing by the Authority in an Addendum to this RFQ prior to the submittal deadline.

Accordingly, the Authority has no responsibility to conduct, after the submittal deadline, any negotiations pertaining to the contract clauses already published.

**6.4 Contract Conditions**

The following provisions are considered mandatory conditions of any contract award made by the Authority pursuant to this RFQ:

**A. Contract Form**

The Authority will not execute a contract on the successful Responders form. Contracts will only be executed on OHA Services Contract (Attachment L) and the HUD-51915 form (Attachment M) and by submitting a response the successful Responder agrees to do so. Please note that the Authority reserves the right to amend this form as the Authority deems necessary. However, the Authority will, during the RFQ process and prior to the submittal deadline consider any contract amendments that the Responder wishes to include therein and submits in writing a request for the Authority to do so. **IF THE PROPOSED AMENDMENTS ARE NOT ACCEPTED BY THE AUTHORITY, THEN THE RESPONDER MUST EXECUTE THE CONTRACT FORM AS IS.** Failure of the Authority to include such amendments does not give the successful proposer the right to refuse to execute the Authority's contract form. It is the responsibility of each prospective Responder to notify the Authority, in writing, prior to submitting a response, of any contract clause that he/she is not willing to include and abide by in the final executed contract. The Authority will consider and respond to such written correspondence, and if the prospective Responder is not willing to abide by the Authority's decision, then that

prospective Responder shall be deemed ineligible to submit a response. ***Please note: Oakland Housing Authority has no legal right or ability to (and will not) at any time, negotiate any clauses contained within ANY of the HUD forms included as a part of this RFQ.***

**B. Assignment of Personnel**

The Authority shall retain the right to demand and receive a change in personnel assigned to the work if the Authority believes that such change is in the best interest of the Authority and the completion of the contracted work.

**C. Unauthorized Sub-Contracting Prohibited**

The successful Responder(s) shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFQ (including, but not limited to, selling or transferring the contract) without the prior written consent of the Oakland Housing Authority Contracting Officer. Any purported assignment of interest or delegation of duty, without the prior written consent of the Authority Contracting Officer shall be void and may result in the cancellation of the contract with the Oakland Housing Authority, or may result in the full or partial forfeiture of funds paid to the successful Responder as a result of the proposed contract; either as determined by the Contracting Officer.

**6.5 Contract Terms**

The Authority intends to enter into a one year contract with the selected Responder(s), with the option to extend the contract for four, one year terms.

**6.6 Contractor's Breach**

Failure of the Contractor to provide services in accordance with the RFQ and terms of the contract will constitute a breach of the agreement between the Authority and the Contractor. Additional breach conditions include the failure of the Contractor to maintain insurance requirements which are outlined in the Insurance Requirements attachment of this RFQ.

**6.7 Remedies in Case of Breach**

If at the end of five (5) service days from the date of a written notice, the Contractor has not taken the necessary corrective action, the Authority will send notification to the Contractor of its intent to proceed with termination of the contract. Termination will occur 30 calendar days from the date of the termination notice. The termination notice will not be rescinded without the written authorization of the Contract Compliance and General Services Division Manager.

## ATTACHMENT A

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### OHA List of Building Structures for Seismic Evaluation

## Potential Soft Story Buildings

Year Built	Site Address	Unit Count	Stories	Tier
	9008 Cherry Street	4		
	7510-7520 Ney Avenue	5 & 5		
	7209 Holly Street	5		
	3532 Pierson Street	5		
	2228 48 <sup>th</sup> Avenue	5		
	6656 Laird Avenue	4		
	3000 E. 18 <sup>th</sup> Street	7		
	1323 MacArthur Blvd.	7		
	734 Rand Avenue	5		
	541 29 <sup>th</sup> Street	5		
	368 62 <sup>nd</sup> Street	5		
	2001 MacArthur Blvd.	30		
	1120 Bella Vista Avenue	5		
	2080 E. 25 <sup>th</sup> Avenue	5		
	676 Fairmont Avenue	6		

## Under Notice from the City of Oakland Building Division

Year Built	Site Address	Unit Count	Stories	Tier
	1248 E. 34 <sup>th</sup> Street	1		Tier 1-NR
1973	5307 Telegraph Avenue			Tier 1-LB
	461 59 <sup>th</sup> Street			Tier 3
	755 Alcatraz Avenue	10		Tier 3
	2933 Martin Luther King Jr. Way	12		Tier 3
	3901 Webster Street	14		Tier 3

## ATTACHMENT B

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### Notice of Mandatory Seismic Retrofit



Planning and Building  
Department  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

HOUSING AUTHORITY OF THE CITY OF  
OAKLAND  
1619 HARRISON ST OAKLAND CA 94612

Date of Notice: May 20<sup>th</sup>, 2019  
Assessor's Parcel Number: 023 048103001  
Property Address:  
1248 E 34TH ST  
OAKLAND 94610  
Compliance Tier: **1-NR**

**Subject: Notice of Mandatory Seismic Retrofit**

Dear HOUSING AUTHORITY OF THE CITY OF OAKLAND

The US Geological Survey forecasted that one or more major earthquakes will hit the Bay Area by 2045. The Hayward Fault, which runs through the City of Oakland, has the highest probability of occurrence. To reduce the potential loss of life, maintain the housing stock, enhance disaster resiliency, and reduce property damage, on January 22, 2019, the City Council adopted ordinance No.13516 which established a law that requires property owners to seismically strengthen vulnerable structures, commonly known as "soft story" buildings. Your building has been identified as a potential "soft story" building.

A "soft story" building has a weak/ open "target story", which is typically wood frame construction at the ground floor, that can potentially collapse during an earthquake. The "soft story" buildings subject to this ordinance were built before 1991, have two or more stories, and five or more units. For more details on what makes a building a "soft story" building visit <https://www.oaklandca.gov/topics/SSRetrofit>

The seismic retrofit program is divided into three compliance tiers. Current records indicate that your building is subject to the program and is assigned to Compliance Tier **1-NR**. You will need to submit relevant information and complete the required seismic retrofit with the compliance deadlines given below.

**Next Steps:**

**STEP 1: Confirm your building is a "soft story" building**

If you believe the building identified at the top of this page is **not** a "soft story" building, and therefore **exempt** from the seismic retrofit program, you must submit a petition form proving that this building is not subject to this law by ***February 21, 2020***. The form, which requires the signature of a licensed architect or engineer, is available at <https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 2: Confirm your building's compliance tier**



CITY OF OAKLAND

**Planning and Building  
Department**  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

CITY OF OAKLAND HOUSING AUTHORITY  
ATTN EXECUTIVE DIREC

1619 HARRISON ST OAKLAND CA 94612

Date of Notice: May 20<sup>th</sup>, 2019  
Assessor's Parcel Number: 014 122001502  
Property Address:  
5307 TELEGRAPH AVE  
OAKLAND 94609  
Compliance Tier: **1-LB**

**Subject: Notice of Mandatory Seismic Retrofit**

Dear CITY OF OAKLAND HOUSING AUTHORITY

The US Geological Survey forecasted that one or more major earthquakes will hit the Bay Area by 2045. The Hayward Fault, which runs through the City of Oakland, has the highest probability of occurrence. To reduce the potential loss of life, maintain the housing stock, enhance disaster resiliency, and reduce property damage, on January 22, 2019, the City Council adopted ordinance No.13516 which established a law that requires property owners to seismically strengthen vulnerable structures, commonly known as "soft story" buildings. Your building has been identified as a potential "soft story" building.

A "soft story" building has a weak/ open "target story", which is typically wood frame construction at the ground floor, that can potentially collapse during an earthquake. The "soft story" buildings subject to this ordinance were built before 1991, have two or more stories, and five or more units. For more details on what makes a building a "soft story" building visit <https://www.oaklandca.gov/topics/SSRetrofit>

The seismic retrofit program is divided into three compliance tiers. Current records indicate that your building is subject to the program and is assigned to Compliance Tier **1-LB**. You will need to submit relevant information and complete the required seismic retrofit with the compliance deadlines given below.

**Next Steps:**

**STEP 1: Confirm your building is a "soft story" building**

If you believe the building identified at the top of this page is **not** a "soft story" building, and therefore **exempt** from the seismic retrofit program, you must submit a petition form proving that this building is not subject to this law by ***February 21, 2020***. The form, which requires the signature of a licensed architect or engineer, is available at <https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 2: Confirm your building's compliance tier**



Planning and Building  
Department  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

HOUSING AUTHORITY OF THE CITY OF  
OAKLAND  
1619 HARRISON ST OAKLAND CA 94612

Date of Notice: May 20<sup>th</sup>, 2019  
Assessor's Parcel Number: 016 138500103  
Property Address:  
461 59TH ST  
OAKLAND 94609  
Compliance Tier: **3**

**Subject: Notice of Mandatory Seismic Retrofit**

Dear HOUSING AUTHORITY OF THE CITY OF OAKLAND

The US Geological Survey forecasted that one or more major earthquakes will hit the Bay Area by 2045. The Hayward Fault, which runs through the City of Oakland, has the highest probability of occurrence. To reduce the potential loss of life, maintain the housing stock, enhance disaster resiliency, and reduce property damage, on January 22, 2019, the City Council adopted ordinance No.13516 which established a law that requires property owners to seismically strengthen vulnerable structures, commonly known as "soft story" buildings. Your building has been identified as a potential "soft story" building.

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The seismic retrofit program is divided into three compliance tiers. Current records indicate that your building is subject to the program and is assigned to Compliance Tier **3**. You will need to submit relevant information and complete the required seismic retrofit with the compliance deadlines given below.

**Next Steps:**

**STEP 1: Confirm your building is a "soft story" building**

If you believe the building identified at the top of this page is **not** a "soft story" building, and therefore **exempt** from the seismic retrofit program, you must submit a petition form proving that this building is not subject to this law by **February 21, 2020**. The form, which requires the signature of a licensed architect or engineer, is available at <https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 2: Confirm your building's compliance tier**



**Planning and Building  
Department**  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

HOUSING AUTHORITY OF THE CITY OF  
OAKLAND  
1619 HARRISON ST OAKLAND CA 94612

Date of Notice: May 20<sup>th</sup>, 2019  
Assessor's Parcel Number: 015 136403501  
Property Address:  
755 ALCATRAZ AVE  
OAKLAND 94609  
Compliance Tier: **3**

**Subject: Notice of Mandatory Seismic Retrofit**

Dear HOUSING AUTHORITY OF THE CITY OF OAKLAND

The US Geological Survey forecasted that one or more major earthquakes will hit the Bay Area by 2045. The Hayward Fault, which runs through the City of Oakland, has the highest probability of occurrence. To reduce the potential loss of life, maintain the housing stock, enhance disaster resiliency, and reduce property damage, on January 22, 2019, the City Council adopted ordinance No.13516 which established a law that requires property owners to seismically strengthen vulnerable structures, commonly known as "soft story" buildings. Your building has been identified as a potential "soft story" building.

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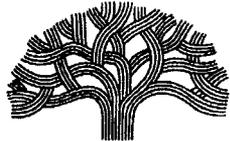
The seismic retrofit program is divided into three compliance tiers. Current records indicate that your building is subject to the program and is assigned to Compliance Tier **3**. You will need to submit relevant information and complete the required seismic retrofit with the compliance deadlines given below.

**Next Steps:**

**STEP 1: Confirm your building is a "soft story" building**

If you believe the building identified at the top of this page is **not** a "soft story" building, and therefore **exempt** from the seismic retrofit program, you must submit a petition form proving that this building is not subject to this law by **February 21, 2020**. The form, which requires the signature of a licensed architect or engineer, is available at <https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 2: Confirm your building's compliance tier**



CITY OF OAKLAND

Planning and Building  
Department  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

HOUSING AUTHORITY OF THE CITY OF  
OAKLAND  
1619 HARRISON ST OAKLAND CA 94612

Date of Notice: May 20<sup>th</sup>, 2019  
Assessor's Parcel Number: 009 069600100  
Property Address:  
2933 M L KING JR WAY  
OAKLAND 94609  
Compliance Tier: 3

**Subject: Notice of Mandatory Seismic Retrofit**

Dear HOUSING AUTHORITY OF THE CITY OF OAKLAND

The US Geological Survey forecasted that one or more major earthquakes will hit the Bay Area by 2045. The Hayward Fault, which runs through the City of Oakland, has the highest probability of occurrence. To reduce the potential loss of life, maintain the housing stock, enhance disaster resiliency, and reduce property damage, on January 22, 2019, the City Council adopted ordinance No.13516 which established a law that requires property owners to seismically strengthen vulnerable structures, commonly known as "soft story" buildings. Your building has been identified as a potential "soft story" building.

A "soft story" building has a weak/ open "target story", which is typically wood frame construction at the ground floor, that can potentially collapse during an earthquake. The "soft story" buildings subject to this ordinance were built before 1991, have two or more stories, and five or more units. For more details on what makes a building a "soft story" building visit <https://www.oaklandca.gov/topics/SSRetrofit>

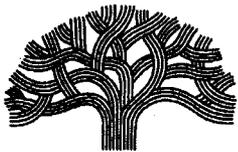
The seismic retrofit program is divided into three compliance tiers. Current records indicate that your building is subject to the program and is assigned to Compliance Tier 3. You will need to submit relevant information and complete the required seismic retrofit with the compliance deadlines given below.

**Next Steps:**

**STEP 1: Confirm your building is a "soft story" building**

If you believe the building identified at the top of this page is **not** a "soft story" building, and therefore **exempt** from the seismic retrofit program, you must submit a petition form proving that this building is not subject to this law by **February 21, 2020**. The form, which requires the signature of a licensed architect or engineer, is available at <https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 2: Confirm your building's compliance tier**



CITY OF OAKLAND

**Planning and Building  
Department**

250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

HOUSING AUTHORITY OF THE CITY OF  
OAKLAND  
1619 HARRISON ST OAKLAND CA 94612

Date of Notice: June 17<sup>th</sup>, 2019  
Assessor's Parcel Number: 012 097301301  
Property Address:  
3901 WEBSTER ST  
OAKLAND 94609  
Compliance Tier: **3**

**Subject: Notice of Mandatory Seismic Retrofit**

Dear HOUSING AUTHORITY OF THE CITY OF OAKLAND

The US Geological Survey forecasted that one or more major earthquakes will hit the Bay Area by 2045. The Hayward Fault, which runs through the City of Oakland, has the highest probability of occurrence. To reduce the potential loss of life, maintain the housing stock, enhance disaster resiliency, and reduce property damage, on January 22, 2019, the City Council adopted ordinance No.13516 which established a law that requires property owners to seismically strengthen vulnerable structures, commonly known as "soft story" buildings. Your building has been identified as a potential "soft story" building.

A "soft story" building has a weak/ open "target story", which is typically wood frame construction at the ground floor, that can potentially collapse during an earthquake. The "soft story" buildings subject to this ordinance were built before 1991, have two or more stories, and five or more units. For more details on what makes a building a "soft story" building visit <https://www.oaklandca.gov/topics/SSRetrofit>

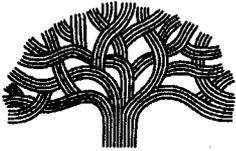
The seismic retrofit program is divided into three compliance tiers. Current records indicate that your building is subject to the program and is assigned to Compliance Tier **3**. You will need to submit relevant information and complete the required seismic retrofit with the compliance deadlines given below.

**Next Steps:**

**STEP 1: Confirm your building is a "soft story" building**

If you believe the building identified at the top of this page is **not** a "soft story" building, and therefore **exempt** from the seismic retrofit program, you must submit a petition form proving that this building is not subject to this law by **February 21, 2020**. The form, which requires the signature of a licensed architect or engineer, is available at <https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 2: Confirm your building's compliance tier**



CITY OF OAKLAND

Planning and Building  
Department  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

**If you are NOT exempt, you must do the following:**

**STEP 3:** Perform mandatory evaluation and submit initial affidavit of compliance.  
<https://www.oaklandca.gov/topics/SSRetrofit>

**STEP 4:** Obtain retrofit permit or submit target story evaluation report.

**STEP 5:** Perform retrofit work and obtain approval on final inspection; submit final affidavit of compliance.

**Compliance Deadlines**

Assigned Compliance Tier	STEP 1. Document that building is <b>not</b> a subject building	STEP 2. Document that building is eligible for a later compliance tier	STEP 3. Perform mandatory evaluation and submit initial affidavit of compliance	STEP 4. Obtain retrofit permit or submit Target Story evaluation report	STEP 5. Perform retrofit work and obtain approval on final inspection; submit final affidavit of compliance
Tier 1-LB	2/21/2020	2/21/2020	2/21/2021	2/21/2022	2/21/2023
Tier 1-NR	2/21/2020	2/21/2020	2/21/2021	2/21/2022	2/21/2023
Tier 2	2/21/2020	2/21/2020	2/21/2022	2/21/2023	2/21/2024
Tier 3	2/21/2020	NA	2/21/2023	2/21/2024	2/21/2025

For more information, including Frequently Asked Questions, the ordinance text, forms, and announcements of upcoming informational events, please visit

<https://www.oaklandca.gov/topics/SSRetrofit>

City of Oakland  
Planning and Building Department  
Bureau of Building  
510-238-3344  
MandatorySoftStoryRetrofit@oaklandca.gov

## ATTACHMENT C

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City of Oakland Ordinance No. 13516

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

19 JAN 10 PM 4: 86

APPROVED AS TO FORM AND LEGALITY

AS REVISED IN COMMITTEE

Office of the City Attorney

## OAKLAND CITY COUNCIL

### ORDINANCE NO. 13516 C.M.S.

INTRODUCED BY COUNCILMEMBER KALB and MAYOR SCHAAF

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**ORDINANCE, AS RECOMMENDED, IN PART, BY THE PLANNING COMMISSION, AMENDING THE OAKLAND MUNICIPAL CODE TO: (1) ADD BUILDING AND CONSTRUCTION CODE CHAPTER 15.27 ENTITLED MANDATORY SEISMIC EVALUATION AND RETROFIT OF CERTAIN MULTI-UNIT RESIDENTIAL BUILDINGS, (2) ADD PLANNING CODE SECTION 17.102.250 TO CREATE SPECIAL EXCEPTIONS TO BUILDINGS UNDERGOING PERMITTED RETROFIT WORK IN COMPLIANCE WITH CHAPTER 15.27, (3) MAKE CONFORMING CHANGES TO SECTIONS 1.08.020 AND 15.26.230, AND (4) MAKE CLARIFYING AMENDMENTS RELATING TO CAPITAL IMPROVEMENTS IN CHAPTER 8.22, ARTICLE I (RESIDENTIAL RENT ADJUSTMENT); AND DIRECTING THE RENT BOARD TO MODIFY ITS CAPITAL IMPROVEMENT AMORTIZATION SCHEDULE FOR WORK IN COMPLIANCE WITH CHAPTER 15.27; AND ADOPTING CEQA EXEMPTIONS**

**WHEREAS**, the City of Oakland is subject to major earthquake-related hazards including very violent ground shaking, liquefaction, and landslide; and

**WHEREAS**, the United States Geological Survey in 2015 forecast a 72 percent probability of one or more magnitude 6.7 or greater earthquakes in the San Francisco Bay Area by 2045. The Hayward and Rodgers Creek faults system have the highest probability of such an earthquake in the Bay Area; and

**WHEREAS**, the Hayward fault, which bisects the City of Oakland, has an average recurrence rate of about 140 years, and last experienced a damaging earthquake in 1868, 150 years ago; and

**WHEREAS**, the City of Oakland endeavors to maintain its housing stock and to enhance its disaster resiliency, reducing potential for loss of life and property damage while accelerating economic recovery; and

**WHEREAS**, the Housing Element of the City of Oakland's General Plan specifically includes policies to promote seismic safety and retrofitting, including Action

4.3.9, "Seismic Safety Retrofit Policy," which seeks to "[d]evelop and explore funding sources for a new seismic retrofit policy, coupled with tenant protections, to preserve about 14,000 soft story housing units in Oakland's flatland neighborhoods at risk for destruction in a major earthquake;" and

**WHEREAS**, the Safety Element of the City of Oakland's General Plan contains Policy GE-3, which provides that the City of Oakland "[c]ontinue to enhance or develop regulations and programs designed to minimize seismically related structural hazards from new and existing buildings;" and

**WHEREAS**, the City of Oakland is committed to helping meet the needs of Oakland residents for safe and disaster-resistant housing in buildings that are architecturally diverse and serve a variety of household sizes and incomes; and

**WHEREAS**, in 2008, the City and the Association of Bay Area Governments (ABAG) conducted a survey and identified 24,273 residential units in approximately 1,479 potential soft-story buildings in Oakland based on criteria representing the greatest risk – five or more units, two to seven stories tall, built before 1991, and parking or commercial uses on the ground floor; and

**WHEREAS**, in 2009, the City Council passed a mandatory soft-story screening ordinance (Ordinance 12966 C.M.S.; Oakland Municipal Code ("O.M.C.") Chapter 15.26) that required owners of potential soft-story multi-unit residential buildings to conduct a seismic screening assessment to determine potential seismic risk; and

**WHEREAS**, the survey conducted by ABAG and the screening program conducted in accordance with O.M.C. Chapter 15.26 have determined that these "soft story" residential buildings number between 1,400 and 2,600 and likely contain over 24,000 residential units, representing at least eleven percent (11%) of Oakland's rental units but as much as two-thirds of the expected housing losses in a future damaging earthquake; and

**WHEREAS**, these so-called multi-family "soft story" residential buildings, permitted for construction before 1991 and built with soft, weak, open, or otherwise vulnerable wood framing in the lower stories, are inherently subject to severe earthquake damage and possible collapse; and

**WHEREAS**, these "soft story" residential buildings pose a substantial safety risk to tenants, a substantial financial risk to owners, and a substantial recovery risk to Oakland neighborhoods and to the City of Oakland as a whole; and

**WHEREAS**, California Health and Safety Code section 19161 authorizes the City of Oakland to assess the earthquake hazard in its jurisdiction and to identify buildings that are potentially hazardous to life in the event of an earthquake. Health and Safety Code section 19162 authorizes the City Council to establish by ordinance seismic retrofit standards for these buildings; and

**WHEREAS**, sections 19161 and 19162 of the California Health and Safety Code authorize the City of Oakland to establish building seismic retrofit standards applicable to the seismic retrofit of any buildings identified pursuant to 19161(a)(2), which includes woodframe, multi-unit residential buildings constructed before January 1, 1978; and

**WHEREAS**, sections 17958.5 and 17958.7 of the California Health and Safety Code authorize the City to make findings that any modifications to the California Building Standards Code and other regulations are reasonably necessary because of local climatic, geological, or topographical conditions; and

**WHEREAS**, as set forth herein, the City's local climatic, geological, and topographical conditions require modifications from the requirements of California Health and Safety Code section 17922, where applicable, as a result of technical information developed through the ABAG survey, the City's screening program, and other technical information; and

**WHEREAS**, seismic retrofit of "soft story" buildings is expected to save lives, reduce injuries, reduce expected property damage and financial losses, avoid renters' costs of relocating from damaged buildings, avoid owners' costs of repair, demolition, rebuilding, and loss of business, avoid costs to the public of emergency services and lost tax revenue, and help keep Oakland residents in their homes after a damaging earthquake; and

**WHEREAS**, the City has a policy interest in preserving existing affordable housing options and in preserving its current housing stock from potential destruction from earthquakes, fires, and other natural disasters; and

**WHEREAS**, Article XI, Section 5 of the California Constitution provides that the City, as a home rule charter city, has the power to make and enforce all ordinances and regulations with respect to municipal affairs, and Article XI, Section 7, empowers the City to enact measures that protect the health, safety, and/or welfare of its residents; and

**WHEREAS**, the City desires to further the public health, safety and/or welfare by requiring seismic strengthening of certain "soft story" buildings; and

**WHEREAS**, Section 106 of the Oakland City Charter provides that the City has the right and power to make and enforce all laws and regulations with respect to municipal affairs; and

**WHEREAS**, this Ordinance meets constitutional standards, State law, the Oakland City Charter, and the City's General Plan; and

**WHEREAS**, on October 3, 2018, the City Planning Commission conducted a duly noticed public hearing to consider the proposed amendments to the Oakland Planning Code and recommended that the City Council approve amendments to the Oakland Planning Code and find that the proposed amendments are exempt from the California Environmental Quality Act ("CEQA"); and

**WHEREAS**, after a duly noticed public meeting on December 4, 2018, the Community and Economic Development Committee of the City Council voted to recommend approval of the proposed amendments to the Oakland Municipal Code; and

**WHEREAS**, the City Council held a duly noticed public hearing on December 11, 2018 to consider the proposed amendments to the Oakland Municipal Code, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

**WHEREAS**, the City Council recognizes that seismic retrofit Capital Improvements are critically important to protect lives and maintain Oakland's housing stock in the case of an earthquake; and

**WHEREAS**, this action is exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), 15612 and 15163 (no further environmental review required), 15183 (projects consistent with a community plan, general plan, or zoning), 15301 (existing facilities), 15302 (replacement or reconstruction), and 15309 (inspections), each as a separate and independent basis, and when viewed collectively provide an overall basis for CEQA clearance; now therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The Council of the City of Oakland finds and determines the foregoing recitals to be true and correct and are hereby incorporated herein as findings and determinations of the City Council.

**SECTION 2. Addition of Chapter 15.27 to the Oakland Municipal Code.** The following O.M.C. Chapter 15.27 Mandatory Seismic Evaluation and Retrofit of Certain Multi-Unit Residential Buildings is hereby adopted and shall read as follows (the entirety of O.M.C. Chapter 15.27 is new text and is shown as normal text):

**Title 15 – Buildings and Construction**  
**Chapter 15.27 Mandatory Seismic Evaluation and Retrofit of Certain Multi-Unit Residential Buildings**

**Sections:**

**Article I – Scope**

**15.27.010 – Title**

**15.27.020 – Intent**

**15.27.030 – Subject Buildings**

**15.27.040 – Conformance Period**

**Article II – Compliance**

**15.27.050 – Scope**

- 15.27.060 – Design Professionals**
- 15.27.070 – Schedule**
- 15.27.075 – Extension for Financial Hardship**
- 15.27.080 – Submittals**
- 15.27.090 – Approval**

**Article III – Administrative**

- 15.27.100 – Notification**
- 15.27.110 – Fees**
- 15.27.120 – Violations**
- 15.27.130 – Retention of Plans**
- 15.27.140 – Record Keeping**

**Article IV – Technical**

- 15.27.150 – Definitions**
- 15.27.160 – Engineering Intent**
- 15.27.165 – Evaluation Criteria**
- 15.27.170 – Target Story Engineering Criteria**
- 15.27.180 – Technical Bulletins and Administrative Regulations**
- 15.27.190 – Related Requirements**

**ARTICLE I. SCOPE**

**15.27.010 Title.** This Chapter shall be known as "Mandatory Seismic Evaluation and Retrofit of Certain Multi-Unit Residential Buildings," may be cited as such, and will be referred to herein as "this Chapter."

**15.27.020 Intent.** This Chapter is intended to promote public safety and welfare through a program of mandatory seismic evaluation and retrofit of certain residential buildings vulnerable to earthquake damage and collapse. The program is intended to reduce earthquake-related deaths and injuries, improve the durability of Oakland's housing stock, facilitate post-earthquake emergency response, improve community stability, minimize displacement during retrofits and after an earthquake, and reduce the economic impacts of a damaging earthquake.

**15.27.030 Subject Buildings.** This Chapter shall apply to buildings constructed or permitted for construction before January 1, 1991 or designed based on an adopted version of the 1985 or earlier edition of the Uniform Building Code, and contain five or more Dwelling Units, and have a Wood Frame Target Story. Following the Effective Date of this Chapter, if an Owner adds one or more Dwelling Units to a building that has fewer than five (5) Dwelling Units so that it becomes a building with 5 or more Dwelling Units, then the Building shall be considered a Subject Building at the time building permits are issued for the additional Dwelling Unit(s).

**15.27.040 Conformance Period.** No subject building for which permitted retrofit work is completed in compliance with this Chapter and properly maintained shall be required by the City to undergo additional seismic retrofit of its seismic force-resisting system within a period of fifteen (15) years after the effective date of this Chapter,

except that any provisions in Title 15 related to addition, alteration, repair, or change of occupancy shall still apply.

## ARTICLE II. COMPLIANCE

**15.27.050 Scope.** The Owner of each building subject to this Chapter shall, in accordance with the schedule given in Section 15.27.070, complete the following compliance scope.

- A. **Demonstrate That a Building is Not a Subject Building.** This scope item is required only for those owners who claim that their building is not a subject building. In such cases, the Owner shall submit documentation for review and approval by the Building Official demonstrating that a building is not a subject building as described in Section 15.27.030. The Bureau of Building shall develop regulations and forms pursuant to Section 15.27.180 that describes the documentation necessary to comply with this paragraph.
- B. **Demonstrate Eligibility for a Later Compliance Tier.** This scope item is required only for those owners who claim that their subject building should be assigned to a later compliance tier. The Owner may submit documentation demonstrating that a building is eligible for a later compliance Tier pursuant to Section 15.27.070.
- C. **Perform Mandatory Evaluation.** If Section 15.27.050(A) does not apply, then the Owner shall commission and receive a written seismic evaluation and schematic retrofit report for the building based on the Engineering Criteria given in Section 15.27.165(A).
- D. **Complete Mandatory Retrofit Work.** If Section 15.27.050(A) does not apply, then the Owner shall complete the following:
  - 1. Submit to the Bureau of Building a Target Story evaluation report demonstrating compliance of each Wood Frame Target Story with Section 15.27.170 Engineering Criteria; or
  - 2. Obtain a building permit and any other required permit(s) to retrofit the subject building in compliance with Section 15.27.170 Engineering Criteria; and
  - 3. Complete or cause to be completed all permitted construction, and obtain Bureau of Building approval on final inspection.
- E. **Residential Tenants.** For those buildings containing residential tenants, the Owner shall submit documentation of compliance with any technical bulletins and/or administrative regulations issued by the City Administrator pursuant to Section 15.27.180 regarding residential tenants of the building.
- F. **Submit Affidavits of Compliance.** If paragraphs C and D of this section apply, the Owner shall submit one or more affidavits confirming compliance with the

required scope and with other administrative regulations, including any requirements to acknowledge receipt of information about retrofit options, developed by the Bureau of Building.

**15.27.060 Design Professionals.** All work intended to comply with this Chapter shall be performed by appropriately licensed individuals. Evaluation reports shall be sealed by a licensed Architect or Civil Engineer. Documents demonstrating that a building is not a subject building shall be sealed by a licensed Architect or Civil Engineer.

**15.27.070 Schedule.** The Owner of a building subject to this Chapter shall comply with each of the Chapter's requirements in accordance with the deadlines given in Table 15.27.070.

- A. Each subject building shall be assigned to a Compliance Tier as follows:
1. **Tier 1:** Subject Buildings assigned to Tier 1 shall include:
    - a. Buildings not eligible for Tier 2 or Tier 3, with twenty (20) or more Dwelling Units;
    - b. Buildings whose owners failed to comply with O.M.C. Section 15.26.230 (Mandatory Screening Ordinance) on or before July 28, 2011, regardless of the number of Dwelling Units or nominal eligibility for Tier 2 or Tier 3.
  2. **Tier 2:** Subject Buildings assigned to Tier 2 shall include:
    - a. Buildings not eligible for Tier 3 with between five (5) and nineteen (19) Dwelling Units;
    - b. Buildings with legally permitted Business or Mercantile occupancy in a Wood Frame Target Story. A building assigned to Tier 2 due to Business or Mercantile occupancy may be reassigned to Tier 3 upon demonstration by the Owner that at least one commercial unit is non-vacant on the day one year from the effective date of this Chapter, and has been occupied for at least one month.
  3. **Tier 3:** Subject Buildings assigned to Tier 3 shall include:
    - a. Buildings with legally permitted Residential occupancy in a Wood Frame Target Story not otherwise assigned to Tier 1 or Tier 2;
    - b. Buildings otherwise assigned to Tier 3.
- B. Failure to fully comply with any deadline or to receive approval of submitted materials shall not alter other applicable deadlines.
- C. In no case shall transfer of title cause any deadline in Table 15.27.070 to change.
- D. The City Administrator or designee is authorized to extend for up to one year any of the compliance deadlines in Table 15.27.070 based on a demonstration of hardship due to unusual delays related to circumstances beyond the reasonable control of the Owner, including, but not limited to, appeals, litigation, permit processing and/or other similar circumstances.

**TABLE 15.27.070. Compliance Deadlines**  
 [Years after 30 days following the Effective Date of this Chapter]

Building Group or Compliance Tier	Compliance Scope Item				
	Document that building is not a subject building (optional) (15.27.050.A)	Document that building is eligible for a later compliance tier (optional) (15.27.050.B)	Complete mandatory evaluation and submit initial affidavit of compliance (15.27.050.C and E)	Obtain retrofit permit or submit Target Story evaluation report (15.27.050.D.1 or D.2)	Perform retrofit work and obtain approval on final inspection; submit final affidavit of compliance (15.27.050.D.3 and E)
Non-subject buildings	1 year	NA	NA	NA	NA
Tier 1	NA	1 year	2 years	3 years	4 years
Tier 2	NA	1 year	3 years	4 years	5 years
Tier 3	NA	1 year	4 years	5 years	6 years

**15.27.075 Extension for Financial Hardship.** The City Administrator or designee is authorized to extend any of the compliance deadlines in Table 15.27.070 by up to one year based on a demonstration of financial hardship related to the cost of the required work.

- A. To request such an extension, the Owner shall submit a request to the Bureau of Building, together with such documentation as the City Administrator might require regarding the required work, Owner records, and Owner resources.
- B. As a condition of the extension for financial hardship, the Owner may be required to confer with city staff and to demonstrate a good faith effort to secure funding or financing.
- C. Any extension for financial hardship shall apply only to work required by this Chapter.
- D. In the event of a transfer of title, any extension for financial hardship shall not transfer automatically to the new owner.
- E. In determining if an extension due to financial hardship is granted, criteria to be considered by the City Administrator or designee shall include, but not be limited to, the Owner's ability to obtain a loan or alternative financing, size of annual budget (if any), cash reserves, Owner indebtedness, proof of financial return below treasury bonds for several years, as well as any deed restrictions on the Owner's ability to charge market rate rent for a significant portion of the Subject Building'.

**15.27.080 Submittals.** In addition to submittals required by O.M.C. Chapter 15.04, the Bureau of Building shall develop and make available, and is authorized to require the use of, certain forms, templates, checklists, and other tools as needed to facilitate compliance, review, approval, and records maintenance contemplated by this Chapter. The Bureau of Building is authorized to require separate submittals and permit applications for work required for compliance with this Chapter and for voluntary work to be performed simultaneously, as well as separate submittals and permit applications for any non-structural seismic retrofit work.

**15.27.090 Approval.** Except for conditions deemed imminently hazardous and new work triggered by the program scope, the Bureau of Building shall not withhold approval of submitted materials for reasons unrelated to the program scope and the engineering criteria.

### **ARTICLE III. ADMINISTRATIVE**

**15.27.100 Notification.** Within 120 days of the effective date of this Chapter, the Bureau of Building shall send a written notice to the Owner of each known subject building informing the Owner(s) of the requirement to comply with this Chapter.

Failure of the Bureau of Building to send or provide a written notice to unidentified Owners of subject buildings or to Owners of buildings not known to be subject buildings shall not relieve the Owner of a subject building from the requirement to comply with this Chapter. Failure of an Owner to receive a written notice shall not relieve the Owner of a subject building from the requirement to comply with this Chapter.

**15.27.110 Fees.** The fees for the review of various submittals intended to comply with this Chapter shall be specified in the master fee schedule.

**15.27.120 Violations.** An Owner of a building subject to this Chapter who fails to comply with any of this Chapter's requirements shall be subject to fines and penalties contained in Titles 1 and 15. The Building Official shall be authorized to impose the following additional penalties on any Owner in violation of this Chapter.

- A. Failure to obtain a Building Permit or file a Target Story evaluation report on Time. Each Owner who fails to obtain a building permit or file a Target Story evaluation report in accordance with Section 15.27.050 and Section 15.27.070 shall be subject to the fines and penalties set forth in O.M.C. Chapter 1.08.
- B. Failure to Complete Permitted Construction. Each Owner who fails to complete the permitted construction in accordance with Section 15.27.050 and Section 15.27.070 shall be subject to the fines and penalties set forth in O.M.C. Chapter 1.08.
- C. Noncompliance Actions. In addition to the fines authorized by subsections A and B, the following shall apply in the event of any failure to comply with the requirements of this Chapter:

1. The Owner shall notify, in a manner prescribed by the Bureau of Building, all parties with financial interest in the property (such as mortgage lenders, lien holders, insurance bearers) and the tenants, current and prospective, that the building is potentially a seismically hazardous building and is in violation of this Chapter. The Owner shall be required to send written notice (in English, Spanish, and Chinese) to all tenants and to inform prospective tenants in writing.
2. The Bureau of Building may file a statement with the County Recorder office describing violations of this Chapter. Upon correction of any violation of this Chapter, the Bureau of Building will file a release of any order that may have been recorded for noncompliance with this Chapter.
3. The Bureau of Building may require the Owner to post one or more signs on the building to designate it as potentially a seismically hazardous building. Location, form and content of the signs shall be at the discretion of the Bureau of Building. The Owner shall be responsible for installing and maintaining the signs and immediately replacing them, at the Owner's expense, as necessary. When the Owner corrects all violations of this Chapter, the Bureau of Building shall authorize removal of the signs.

D. Injunctive Relief. The City Attorney may file suit or take appropriate action to compel compliance of the provisions in this Chapter.

**15.27.130 Retention of Plans.** Notwithstanding any provision or exception in Title 15, including Exception 1 to Section 1.8.4.3.1 of the California Building Code and its successors, the Bureau of Building shall retain an official copy of any approved Target Story evaluation reports and retrofit design plans submitted to comply with this Chapter.

**15.27.140 Record Keeping.** The Bureau of Building shall maintain a listing of buildings subject to this Chapter and shall make that listing readily accessible to the public. The Bureau of Building shall convey the updated compliance status of each subject building and its parcel number to the County Clerk-Recorder once every six months.

#### **ARTICLE IV. TECHNICAL**

**15.27.150 Definitions.** In addition to the definitions in Title 15 of this Code, the following definitions shall apply for purposes of this Chapter.

**Dwelling Unit.** A Dwelling Unit shall include any individual residential unit in a building with R-1 or R-2 occupancy, as well as any guest room, with or without a kitchen, in either a tourist or residential hotel or motel but shall not include a housekeeping room. Any unit occupied as a Dwelling Unit, whether approved or not approved for such use, shall be counted as a Dwelling Unit.

**Owner.** "Owner" shall have the same definition as O.M.C. Section 15.26.100, which means "any individual or group of individuals or firm or any other entity holding legal or equitable title to the real property."

**Soft Story Building.** A Soft Story Building shall mean any building subject to this Chapter in accordance with Section 15.27.030, and shall mean only such a building.

**Target Story.** A Target Story shall mean either (1) a basement story or underfloor area that extends above grade at any point or (2) any story above grade, where the wall configuration of such basement, underfloor area, or story is substantially more vulnerable to earthquake damage than the wall configuration of the story above; except that a story is not a Target Story if it is the topmost story or if the difference in vulnerability is primarily due to the story above being a penthouse, or an attic with a pitched roof.

**Wood Frame Target Story.** A Wood Frame Target Story means a Target Story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.

**15.27.160 Engineering Intent.** The evaluation criteria and Target Story engineering criteria, given in Section 15.27.170, have been selected as appropriate to the intent of this Chapter. The retrofit criteria, when properly applied, are expected to significantly reduce the collapse risk of subject buildings and to increase the likelihood that these buildings will be structurally safe to repair and occupy shortly after an earthquake.

The Target Story engineering criteria are intended to apply to existing Wood Frame Target Stories in order to improve building performance while limiting retrofit costs and impacts. It is not the intent of this Chapter to require other mitigation of structural or nonstructural deficiencies, seismic or non-seismic, that might lawfully exist but are beyond the purview of this Chapter. The Target Story engineering criteria might not achieve the same performance as design requirements for new buildings or any full-building retrofit objective for existing buildings.

**15.27.165 Building Evaluation Criteria.** The following criteria shall be used for seismic building evaluation, including structural and non-structural elements, except that Target Story structural evaluation shall use the criteria given in Section 15.27.170.

- A. The "Screening" provisions in the latest edition of Seismic Evaluation and Retrofit of Existing Buildings [ASCE/SEI 41], published by the American Society of Civil Engineers, with a performance objective of Structural Collapse Prevention and Nonstructural Life Safety with the BSE-1E hazard (Basic Safety Earthquake 1 for use with existing buildings). The Bureau of Building is authorized to determine the required scope of the building evaluation.
- B. If compliance with this Chapter will require retrofit of a Target Story, the building evaluation shall consider conditions expected in the post-retrofit building.

**15.27.170 Target Story Engineering Criteria.** Any of the following criteria may be used to demonstrate compliance with this Chapter. Regardless of the criteria applied, the strength of a retrofitted Target Story need not exceed that required to develop the strength of stories above.

- A. For retrofit design only, Appendix Chapter A4 of the latest edition of the *California Existing Building Code*, "Earthquake Risk Reduction in Wood-Frame Residential Buildings With Soft, Weak or Open Front Walls."
- B. For evaluation or retrofit design, the latest edition of *Seismic Evaluation and Retrofit of Existing Buildings [ASCE/SEI 41]*, published by the American Society of Civil Engineers, with a performance objective of Structural Life Safety in the BSE-1E hazard (Basic Safety Earthquake 1 for use with existing buildings).
- C. Historic buildings. Subject buildings qualified as historic are not exempt from this Chapter, but shall be permitted to use alternate building regulations set forth in the California Historical Building Code.

**15.27.180 Technical Bulletins and Administrative Regulations.** The City Administrator or designee is responsible for the administration of this Chapter, and is authorized to develop and require compliance with one or more technical bulletins and/or administrative regulations containing interpretations, clarifications, forms, and commentary to facilitate implementation of the engineering criteria and other requirements set forth in this Chapter.

**15.27.190 Related Requirements.** Except as follows and as specified elsewhere in this Chapter, all provisions of Title 15 for existing buildings apply to buildings subject to this Chapter. Work on subject buildings that is neither required by this Chapter nor triggered by compliance with this Chapter shall be subject to applicable provisions of Title 15.

- A. **Alteration Provisions.** Prior to compliance with this Chapter, buildings subject to this Chapter shall be considered substandard buildings per California Health and Safety Code section 17920.3(o). When considering the Target Story work required by this Chapter as an alteration, 2016 California Existing Building Code section 403.4 and its successor provisions may be waived by the Building Official.
- B. **Zoning Exceptions.** Buildings subject to this Chapter are entitled to special zoning exceptions as described in Section 17.102.250 of the Oakland Planning Code.
- C. **Rent Adjustment.** Allowable adjustments of rents due to seismic retrofit work required by this Chapter shall be governed by relevant requirements in Chapter 8.22 as amended.

**SECTION 3. Amendment of Oakland Planning Code Chapter 17.102.**  
Oakland Planning Code Chapter 17.102 is hereby amended and shall read as follows (the entirety of Section 17.102.250 is new text; additions are shown as double underline and deletions are shown as ~~strikethrough~~):

**Chapter 17.102 Regulations Applicable to Certain Activities and Facilities**

**Sections:**

17.102.010 Title, purpose, and applicability.

17.102.020—17.102.080 Reserved.

17.102.090 Shared access facilities.

17.102.100 Reserved.

17.102.110 Expansion of use into adjacent zones.

17.102.120 Removal of dirt or other minerals—Residential and S-1, S-2, S-3 and OS Zones.

17.102.130 Reserved.

17.102.140 Private stables and corrals.

17.102.160 Adult Entertainment Activities.

17.102.170 Massage Activities.

17.102.180 Restriction on vertical location of activities in buildings containing both Residential and Nonresidential Activities—Commercial Zones.

17.102.190 Joint Living and Work Quarters.

17.102.195 Residentially-Oriented Joint Living and Working Quarters.

17.102.200 Pedestrian bridges constructed over City streets.

17.102.210—17.102.220 Reserved.

17.102.230 Demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity—Nonresidential Zones.

17.102.240 Microwave and satellite dishes over three (3) feet in diameter located in or near Residential Zones.

17.102.250 Special exceptions allowed for multi-unit residential buildings undergoing mandatory seismic retrofit.

~~17.102.255~~17.102.250—17.102.265 Reserved.

17.102.270 An additional kitchen for a single dwelling unit.

17.102.280, 17.102.290 Reserved.

17.102.300 Dwelling units with five (5) or more bedrooms.

17.102.310—17.102.335 Reserved.

- 17.102.340 Electroplating Activities in the Industrial Zones.
- 17.102.350 Tobacco-oriented activities.
- 17.102.360—17.102.390 Reserved.
- 17.102.400 Exterior security bars and related devices.
- 17.102.420—17.102.430 Reserved.
- 17.102.440 Crematories.
- 17.102.450 Laundromats.

**17.102.250 Special exceptions allowed for multi-unit residential buildings undergoing mandatory seismic retrofit.**

The following special exceptions apply to any building undergoing permitted retrofit work in compliance with Chapter 15.27 of the Oakland Municipal Code:

- A. Parking, Setback, and Height. The parking, setback, and height requirements normally applicable to any building, pursuant to the City's Planning Code, undergoing permitted retrofit work shall be waived if said requirements cannot be met due to alterations resulting from retrofit work required by Chapter 15.27 of the Oakland Municipal Code.
- B. Additional Unit(s). The number of legal living units in any building undergoing permitted retrofit work may be increased by one (1) unit for properties containing at least five (5) but fewer than twenty (20) living units and by two (2) units for properties containing twenty (20) or more living units, regardless of any resulting nonconformity as to the normally required maximum density, as long as the additional unit is located either within the building envelope resulting from the permitted retrofit work or outside of such building envelope, but within the height and setback requirements normally applicable to the subject building. The building permit for the additional unit must be issued no later than five (5) years from the date of the final inspection of the retrofit work. An additional unit is not allowed if the new unit would reduce the number of bedrooms or bathrooms in any existing unit, or reduce the total amount of floor area in any existing unit by ten percent (10%) or more.
  - 1. Parking. The normally required parking requirements of the Oakland Planning Code shall not apply to such additional unit(s) if the site is located within a Transit Accessible Area, as defined in Chapter 17.09.
  - 2. Open Space. The normally required open space requirements of the Oakland Planning Code shall not apply to such additional unit(s) regardless of site location.

**SECTION 4. Amendment of Oakland Municipal Code Section 1.08.020.**

O.M.C. Section 1.08.020 is hereby amended to read as follows (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

**1.08.020 - Scope.**

A. This Chapter authorizes the administrative assessment of civil penalties to effect abatement of:

1. Any violations of provisions of the following Oakland Municipal Codes: Oakland Building Code (O.M.C. Chapter 15.04), the Oakland Housing Code (O.M.C. Chapter 15.08), Uniform Fire Code (O.M.C. Chapter 15.12), Fire Damaged Area Protection & Improvement Code (O.M.C. Chapter 15.16), Mandatory Seismic Evaluation and Retrofit of Certain Multi-Unit Residential Buildings (O.M.C. Chapter 15.27), Bedroom Window Security Bar & Smoke Detector Permit Code (O.M.C. Chapter 15.64), Oakland Planning Code (O.M.C. Title 17), Transient Occupancy Tax Code (O.M.C. Chapter 4.24), Hotel Rates & Register Code (O.M.C. Chapter 5.34), Animal Code (O.M.C. Title 6), Health & Safety Code (O.M.C. Title 8), Public Peace, Morals and Welfare Code (O.M.C. Title 9), Vehicles and Traffic Code (O.M.C. Title 10), Streets, Sidewalks & Public Places Code (O.M.C. Title 12), Creek Protection, Storm Water Management and Discharge Control Code (O.M.C. Chapter 13.16) and the Oakland Sign Code (O.M.C. Chapter 14); or,
2. The occurrence of anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, which affects-at-the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; or
3. The occurrence of any public nuisance as known at common law or in equity jurisprudence, or
4. The violation of any state or federal law or regulations under which such violation is deemed a public nuisance.

B. Civil penalties established in this Chapter are in addition to any other administrative or legal remedy which may be pursued by the city to address violations of the codes and ordinances identified in this chapter.

**SECTION 5. Amendment of Oakland Municipal Code Section 15.26.230.**  
O.M.C. Section 15.26.230 is hereby amended to read as follows (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

### **15.26.230 Compliance.**

The owner shall submit a written Level 1 Screening or a written Level 2 Evaluation to the Building Official within two calendar years following the effective date of this Chapter, or by such earlier date as may be required by the Building Official upon notification to the owner as set forth in Section 15.26.160. Failure of the owner to comply fully with the provisions of this Chapter and this Section shall be sufficient cause for administrative and non-administration actions set forth in Sections 15.26.130 and 15.26.140.

An owner in full compliance with Chapter 15.27 shall be considered to be in compliance with this Chapter.

**SECTION 6. Amendment of Oakland Municipal Code Chapter 8.22, Article 1, Residential Rent Adjustment Program.** O.M.C. Section 8.22.020 and 8.22.090 are hereby amended to read as follows (additions are shown as double underline and deletions are shown as a ~~strikethrough~~):

#### **Article I. - Residential Rent Adjustment Program**

##### **8.22.020 - Definitions.**

As used in this chapter, Article I:

"1946 notice" means any notice of termination of tenancy served pursuant to California Civil Code Section 1946. This notice is commonly referred to as a thirty (30) or sixty (60) day notice of termination of tenancy, but the notice period may actually be for a longer or shorter period, depending on the circumstances.

"1946 Termination of tenancy" means any termination of tenancy pursuant to California Civil Code § 1946.

"Anniversary date" is the date falling one year after the day the tenant was provided with possession of the covered unit or one year after the day the most recent rent adjustment took effect, whichever is later. Following certain vacancies, a subsequent tenant will assume the anniversary date of the previous tenant (Section 8.22.080).

"Appeal panel" means a three-member panel of board members authorized to hear appeals of Hearing Officer decisions. Appeal panels must be comprised of one residential rental property owner, one tenant, and one person who is neither a tenant nor a residential rental property owner. Appeal panels may be made up of all regular board members, all alternates, or a combination of regular board members and alternates.

"Banking" means any CPI Rent Adjustment (or any rent adjustment formerly known as the Annual Permissible Rent Increase) the owner chooses to delay imposing in part or in full, and which may be imposed at a later date, subject to the restrictions in the regulations.

"Board" and "Residential Rent Adjustment Board" means the Housing, Residential Rent and Relocation Board.

~~"Capital improvements"~~ Capital Improvements means those improvements to a covered unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the tenant rather than the owner. Capital improvement costs that may

be passed through to tenants include seventy percent (70%) of actual costs, plus imputed financing. Capital improvement costs shall be amortized over the useful life of the improvement as set forth in an amortization schedule developed by the Rent Board. ~~Capital improvements~~ Capital Improvements do not include the following as set forth in current and future the regulations: correction of serious code violations not created by the tenant; improvements or repairs required because of deferred maintenance; improvements that are greater in character or quality than existing improvements ("gold-plating" "over-improving") excluding: improvements approved in writing by the tenant, improvements that bring the unit up to current building or housing codes, or the cost of a substantially equivalent replacement; or costs for which a landlord is reimbursed (e.g., insurance, court awarded damages, subsidies, tax credits, and grants.)

"CPI—All items" means the Consumer Price Index—All items for all urban consumers for the San Francisco—Oakland—San Jose area as published by the U.S. Department of Labor Statistics for the twelve (12) month period ending on the last day of February of each year.

"CPI—Less shelter" means the Consumer Price Index—All items less shelter for all urban consumers for the San Francisco—Oakland—San Jose area as published by the U.S. Department of Labor Statistics for the twelve (12) month period ending on the last day of February of each year.

"CPI Rent Adjustment" means the maximum rent adjustment (calculated annually according to a formula pursuant to Section 8.22.070 B.3) that an owner may impose within a twelve (12) month period without the tenant being allowed to contest the rent increase, except as provided in Section 8.22.070B.2 (failure of the owner to give proper notices, decreased housing services, and uncured code violations).

"Costa-Hawkins" means the California state law known as the Costa-Hawkins Rental Hawkins Act codified at California Civil Code § 1954.50, et seq. (Appendix A to this chapter contains the text of Costa-Hawkins).

"Covered unit" means any dwelling unit, including joint living and work quarters, and all housing services located in Oakland and used or occupied in consideration of payment of rent with the exception of those units designated in Section 8.22.030A as exempt.

"Ellis Act Ordinance" means the ordinance codified at O.M.C. 8.22.400 (Chapter 8.22, Article III) setting out requirements for withdrawal of residential rental units from the market pursuant to California Government Code § 7060, et seq. (the Ellis Act).

"Fee" means the Rent Program Service Fee as set out in O.M.C. 8.22.500 (Chapter 8.22, Article IV).

"Housing services" means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, and employee services.

"Mandatory Seismic Capital Improvement" means Capital Improvements that consist of mandatory seismic retrofitting as required in O.M.C. Chapter 15.27. Allowable adjustments of rents for work required by O.M.C. Chapter 15.27 shall be governed by Article 1, Chapter 8.22.

"Owner" means any owner, lessor or landlord, as defined by state law, of a covered unit that is leased or rented to another, and the representative, agent, or successor of such owner, lessor or landlord.

"Owner of record" means a natural person, who is an owner of record holding an interest equal to or greater than thirty-three percent (33%) in the property, but not including any lessor, sublessor, or agent of the owner of record.

"Just Cause for Eviction Ordinance" means the ordinance adopted by the voters on November 5, 2002 (also known as Measure EE) and codified at O.M.C. 8.22.300 (O.M.C. Chapter 8.22, Article II).

"Rent" means the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.

"Rent Adjustment Program" means the department in the city that administers this chapter and also includes the board.

"Regulations" means the regulations adopted by the board and approved by the City Council for implementation of this chapter, Article I (formerly known as "Rules and Procedures") (After regulations are approved, they will be attached to this chapter as Appendix B).

"Security deposit" means any payment, fee, deposit, or charge, including but not limited to, an advance payment of rent, used or to be used for any purpose, including but not limited to the compensation of an owner for a tenant's default in payment of rent, the repair of damages to the premises caused by the tenant, or the cleaning of the premises upon termination of the tenancy exclusive of normal wear and tear.

"Tenant" means a person entitled, by written or oral agreement to the use or occupancy of any covered unit.

"Uninsured repairs" means that work done by an owner or tenant to a covered unit or to the common area of the property or structure containing a covered unit which is performed to secure compliance with any state or local law as to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such repair is not reimbursed by insurance proceeds.

"Voluntary Seismic Capital Improvement" means Capital Improvements that consist of "seismic strengthening" as defined in O.M.C. Section 15.30.100, but is not required for compliance under Chapter 15.27.

8.22.090 - Petition and response to filing procedures.

A. Tenant Petitions.

1. Tenant may file a petition regarding any of the following:
  - a. A rent increase was given that is not based on the CPI Rent Adjustment, Banking; and/or a final decision in an owner petition
  - b. The owner set an initial rent in excess of the amount permitted pursuant to Section 8.22.080 (Rent increases following vacancies);
  - c. A rent increase notice failed to comply with the requirements of Subsection 8.22.070H;
  - d. The owner failed to give the tenant a notice in compliance with Section 8.22.060 and State law;
  - e. The owner decreased housing services to the tenant;

- f. The tenant alleges the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Subsection 8.22.070 D.6;
  - g. The owner fails to reduce rent on the month following the expiration of the amortization period for ~~capital improvements~~ Capital Improvements, or to pay any interest due on any rent overcharges from the failure to reduce rent for a capital improvement.
  - h. The owner noticed a rent increase of more than the ten (10) percent annual limit or that exceeds the rent increase limit of thirty (30) percent in five years.
  - i. The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O.M.C. 8.22.300 or its regulations.
  - j. The petition is permitted by the Ellis Act Ordinance, O.M.C. 8.22.400, or its regulations.
  - k. The tenant contests an exemption from this O.M.C. 8.22, Article I or Article II.
  - l. The tenant claims the owner has received reimbursements for any portion of cost or financing of Capital Improvements after a capital improvement rent increase has been approved, and has not prorated and refunded such reimbursement.
2. For a petition contesting a rent increase, the petition must be filed as follows:
- a. If the owner provided written notice of the existence and scope of this chapter as required by section 8.22.060 at the inception of tenancy:
    - i. The petition must be filed within 90 days of the date the owner serves the rent increase notice if the owner provided the RAP notice with the rent increase; or
    - ii. The petition must be filed within 120 days of the date the owner serves the rent increase if the owner did not provide the RAP notice with the rent increase.
  - b. If the owner did not provide written notice of the existence and scope of this chapter as required by section 8.22.060 at the inception of tenancy, within 90 days of the date the tenant first receives written notice of the existence and scope of this chapter as required by section 8.22.060.
3. For a petition claiming decreased housing services:
- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant (e.g., removal of parking place, requirement that tenant pay utilities previously paid by owner) the petition must be filed within 90 days of whichever of the following is later:
    - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or
    - ii. The date the tenant first receives written notice of the existence and scope of this chapter as required by section 8.22.060.
  - b. If the decreased housing is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition

is filed and to the period of time when the owner knew or should have known about the decreased housing service.

4. In order to file a petition or respond to an owner petition, a tenant must provide the following at the time of filing the petition or response:
  - a. A completed tenant petition or response on a form prescribed by the Rent Adjustment Program;
  - b. Evidence that the tenant's rent is current or that the tenant is lawfully withholding rent; and
  - c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services;
  - d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Section 8.22.070D.6.
5. A tenant must file a response to an owner's petition within thirty (30) days of service of the notice by the Rent Adjustment Program that an owner petition was filed.

**B. Owner Petitions and Owner Responses to Tenant Petitions.**

1. In order for an owner to file a response to a tenant petition or to file a petition seeking a rent increase, the owner must provide the following:
  - a. Evidence of possession of a current city business license;
  - b. Evidence of payment of the Rent Adjustment Program Service Fee;
  - c. Evidence of service of written notice of the existence and scope of the Rent Adjustment Program on the tenant in each affected covered unit in the building prior to the petition being filed;
  - d. A completed response or petition on a form prescribed by the Rent Adjustment Program; and
  - e. Documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption.
2. An owner must file a response to a tenant's petition within thirty (30) days of service of the notice by the Rent Adjustment Program that a tenant petition was filed.

**SECTION 7. Direction to Rent Board Regarding Rent Adjustments and Capital Improvement Pass-Through.** Allowable adjustments of rents due to seismic retrofit work required by Chapter 15.27 shall be governed by Article 1, Section 8.22. et seq. Notwithstanding the authority provided by Section 8.22.020, "Capital Improvements," the Housing, Residential Rent and Relocation Board shall revise the capital improvements amortization schedule in the Rent Program Regulations to provide an amortization period for Mandatory Seismic Capital Improvements that conforms with the Rent Board's final motion passed during Item 5 of their July 9, 2015 meeting. Rent Program Regulations may delineate between Mandatory Seismic Capital Improvements and Voluntary Seismic Capital Improvements.

**SECTION 8. Direction to City Administrator Regarding Administrative Regulations.** The City Administrator or designee shall develop and require compliance with technical bulletins and/or administrative regulations to facilitate compliance with this Ordinance as authorized by O.M.C. Section 15.27.180 in Section 2 of this Ordinance. Said technical bulletins and/or administrative regulations shall include, but not be limited to, requirements for owners concerning subject buildings with residential tenants. Said requirements shall address, at a minimum, tenant notification regarding proposed construction schedules and provisions for tenant relocation if the proposed retrofit work requires tenant relocation.

**SECTION 9. Direction to the Bureau of Building to Facilltate Training Seminar for Property Owners.** Within six (6) months from the Effective Date of this Ordinance, the Bureau of Building shall facilitate at least two (2) training workshops to assist property owners and tenants with understanding the requirements and benefits of this Ordinance and to provide an opportunity for them to meet with seismic consultants with experience in seismic retrofitting. The Bureau of Building shall make a reasonable effort to publicize and provide notice of the workshops to every owner of a Subject Building and to the tenants residing in each Subject Building.

**SECTION 10. California Environmental Quality Act.** The City Council has reviewed the proposed amendments to the Oakland Municipal Code and independently finds and determines that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15162 & 15163 (no further environmental review required), 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), 15183 (projects consistent with a community plan, general plan, or zoning), 15301 (existing facilities), 15302 (replacement or reconstruction), and 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance. The Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate agencies.

**SECTION 11. Undertaking for the General Welfare.** In enacting and implementing this Ordinance, the City of Oakland is assuming an undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

**SECTION 12. Authority.** This Ordinance is enacted by the City Council pursuant to the police powers accorded to the City by and through Section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

**SECTION 13. Severability.** The provisions of this Ordinance are severable, and if any article, section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by

decision of any court of competent jurisdiction, such decision shall not affect the validity of remaining portions of the Ordinance which shall remain in full force and effect.

**SECTION 14. Effective Date.** Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.

**SECTION 15. Conflict.** Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

**SECTION 16. Directions to Clerk of the Council.** The Clerk of the Council is directed to send a copy of the finally-passed Ordinance to the California Department of Housing and Community Development for informational purposes, as required by Health and Safety Code section 19165.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: JAN 22 2019

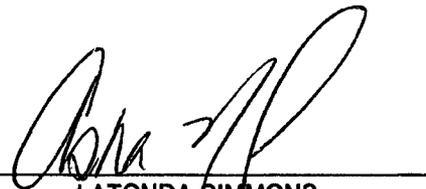
AYES - BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0  
ABSENT - 0  
ABSTENTION - 0

Introduction Date

DEC 11 2018

ATTEST:



LATONDA SIMMONS

City Clerk and Clerk of the Council  
of the City of Oakland, California

Date of Attestation: 1/25/2019

## NOTICE AND DIGEST

**ORDINANCE, AS RECOMMENDED, IN PART, BY THE PLANNING COMMISSION, AMENDING THE OAKLAND MUNICIPAL CODE TO: (1) ADD BUILDING AND CONSTRUCTION CODE CHAPTER 15.27 ENTITLED MANDATORY SEISMIC EVALUATION AND RETROFIT OF CERTAIN MULTI-UNIT RESIDENTIAL BUILDINGS, (2) ADD PLANNING CODE SECTION 17.102.250 TO CREATE SPECIAL EXCEPTIONS TO BUILDINGS UNDERGOING PERMITTED RETROFIT WORK IN COMPLIANCE WITH CHAPTER 15.27, (3) MAKE CONFORMING CHANGES TO SECTIONS 1.08.020 AND 15.26.230, AND (4) MAKE CLARIFYING AMENDMENTS RELATING TO CAPITAL IMPROVEMENTS IN CHAPTER 8.22, ARTICLE I (RESIDENTIAL RENT ADJUSTMENT); AND DIRECTING THE RENT BOARD TO MODIFY ITS CAPITAL IMPROVEMENT AMORTIZATION SCHEDULE FOR WORK IN COMPLIANCE WITH CHAPTER 15.27; AND ADOPTING CEQA EXEMPTIONS**

The Ordinance will add a new Chapter 15.27 to the Oakland Municipal Code to establish a mandatory seismic evaluation and retrofit program for multi-family residential buildings permitted for construction before 1991 and built with soft, weak, open, or otherwise vulnerable wood framing in the lower stories, which are known to be seismically vulnerable. The new Chapter 15.27 will describe the administrative provisions, compliance requirements, and technical criteria to be implemented by the Bureau of Building. The Ordinance will also add a new Section 17.102.250 to the Oakland Planning Code to create special exceptions to buildings undergoing permitted retrofit work in compliance with Chapter 15.27 and various sections of the Oakland Municipal Code for consistency purposes.

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OAKLAND

## ATTACHMENT D

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City of Oakland Technical Bulletin 15.27-1



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**Contents:**

- Part A. Administrative Provisions
- Part B. Engineering Criteria for Mandatory Seismic Evaluation and Schematic Retrofit Report
- Part C. Engineering Criteria for Target Story Retrofit Using CEBC Chapter A4
- Part D. Engineering Criteria for Target Story Evaluation or Retrofit Using ASCE 41

**Part A. Administrative Provisions**

**A.1 Applicability**

**A.1.1. Purpose of this Bulletin.** The purpose of this Bulletin is to establish requirements and code official interpretations regarding compliance with Oakland Municipal Code (OMC) Chapter 15.27.

*Commentary: OMC Chapter 15.27 was created by Ordinance 13516 with an effective date of January 22, 2019. The Chapter 15.27 provisions are available at [https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT15BUCO\\_CHI5.27\\_MASEEVRECEMUITREBU](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT15BUCO_CHI5.27_MASEEVRECEMUITREBU)*

*This Bulletin does not replace either the Ordinance or OMC Chapter 15.27. It is a supplement to the requirements in the Ordinance and the OMC, produced by the Bureau of Building in accordance with OMC Section 15.27.180, which authorizes the Bureau, as the designee of the City Administrator, to develop "interpretations, clarifications, forms, and commentary to facilitate implementation of the engineering criteria and other requirements [of OMC Chapter 15.27]."*

*Electronic copies of this bulletin and other program materials are available at the program's website: [www.oaklandca.gov/topics/ssretrofit](http://www.oaklandca.gov/topics/ssretrofit)*

**A.1.2. Use of this Bulletin.** This Bulletin addresses the engineering requirements of OMC Chapter 15.27, as follows:

- Mandatory seismic evaluation of building components other than the structural system of any target story, as required by OMC Sections 15.27.050.C and 15.27.165, shall comply with Part B of this Bulletin.
- Except where compliance by evaluation is demonstrated, mandatory seismic retrofit of the target story or stories, as required by OMC Sections 15.27.050.D and 15.27.170, shall comply with either Part C or Part D of this Bulletin.
- Evaluation of the target story or stories to demonstrate compliance without retrofit, as allowed by OMC Sections 15.27.050.D and 15.27.170, shall comply with Part D of this Bulletin.

*Commentary: The term "target story" is defined in OMC Section 15.27.150 and in Parts C and*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*D of this Bulletin. Compliance with OMC Chapter 15.27 involves five "steps" represented by the five columns of Table 15.27.070: Compliance Deadlines. The table is reproduced here for reference, with the step numbers and the actual deadlines added. For notification purposes, the Bureau has created two subcategories within Tier 1: Tier 1-NR and Tier 1-LB. Both are subject to the Tier 1 requirements and deadlines given in OMC Chapter 15.27.*

*With reference to the table, this Bulletin addresses only Steps 3, 4, and 5. Information and instructions for complying with the optional Steps 1 and 2 are given on the program's website.*

**Table 15.27.070, modified: Compliance Deadlines**

Building Group or Compliance Tier	Compliance Scope Item				
	STEP 1. Document that building is not a subject building (optional) (15.27.050.A)	STEP 2. Document that building is eligible for a later compliance tier (optional) (15.27.050.B)	STEP 3. Perform mandatory evaluation and submit initial affidavit of compliance (15.27.050.C and F)	STEP 4. Obtain retrofit permit or submit target story evaluation report (15.27.050.D.1 or D.2)	STEP 5. Perform retrofit work and obtain approval on final inspection; submit final affidavit of compliance (15.27.050.D.3 and E)
Non-subject buildings	2/21/2020	NA	NA	NA	NA
Tier 1-NR or Tier 1-LB	NA	2/21/2020	2/21/2021	2/21/2022	2/21/2023
Tier 2	NA	2/21/2020	2/21/2022	2/21/2023	2/21/2024
Tier 3	NA	2/21/2020	2/21/2023	2/21/2024	2/21/2025

**A.1.3. Other regulations.** Unless otherwise specified, work considered by this Bulletin is subject to all City of Oakland regulations and procedures applicable to building alteration projects.

*Commentary: The main purpose of this Bulletin is to reference, modify, and interpret ASCE 41 and CEBC Chapter A4, as shown in Parts B through D. All work done to comply with OMC Chapter 15.27 should otherwise comply with normal regulations and procedures, including those related to design review, permitting, fees, and inspections.*

**A.2 Documentation**

**A.2.1. Combined work scopes.** Non-mandatory seismic improvements may be shown on the same plans and regulated under the same permits as mandatory seismic retrofit work, subject to the approval of the building official. Mandatory and non-mandatory seismic improvements shall be clearly delineated on the permit application. Non-seismic alteration work may be shown on the same plans as seismic



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

improvements but shall be regulated under separate permits.

*Commentary: This provision anticipates that owners might choose to make additional seismic improvements based on the seismic evaluation required by Section 15.27.050.C (see also Part B of this Bulletin). Some might choose to make non-seismic alterations associated with adding an Additional Unit, as allowed by Section 3 of the Ordinance, which adds Section 17.102.250 to the Oakland Planning Code.*

**A.2.2. Permit Application Worksheet.**

**A.2.2.1. Mandatory seismic retrofit.** Where retrofit of the target story is required, the Permit Application Worksheet shall identify the Type of Work as “Retrofit” and shall include, in the Description of Proposed Work, the following: “Mandatory seismic retrofit designed to comply with OMC Chapter 15.27.”

*Commentary: Structural retrofit of the target story, where required, is the only mandatory seismic retrofit contemplated by OMC Chapter 15.27.*

**A.2.2.2. Non-mandatory seismic retrofit.** Where seismic retrofit in addition to the mandatory seismic retrofit is proposed, the Permit Application Worksheet shall identify the Type of Work as “Retrofit” and shall include, in the Description of Proposed Work, the following: “Non-mandatory seismic retrofit.”

*Commentary: Non-mandatory seismic retrofit is any seismic improvement to the structure or to nonstructural components that is not required for compliance with OMC Chapter 15.27. In general, any seismic improvement that is not part of the target story retrofit is non-mandatory. Providing more capacity within the target story retrofit than is strictly required by the design criteria is considered part of the mandatory seismic retrofit.*

**A.2.3. Plans.** Submitted plans shall include all information and details needed to properly construct all of the intended work. Any non-mandatory seismic retrofit work and any non-seismic alteration shall be clearly identified and distinguished from the mandatory seismic retrofit work. In addition, submitted plans shall include:

1. As part of the Project Title, the words “OMC Chapter 15.27 seismic retrofit.”
2. In the Background Information section, the following: “Mandatory seismic retrofit designed to comply with OMC Chapter 15.27.”
3. Existing conditions requiring verification during construction, clearly identified, and coordinated with the structural calculations.
4. Information required by the reference code or standard used, as modified in Part C or Part D of this Bulletin.

*Commentary: Non-seismic alteration is any optional work that is neither mandatory seismic*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*retrofit nor non-mandatory seismic retrofit. Work done to create one or more Additional Units, as allowed by Section 17.102.250 of the Oakland Planning Code, is an example of non-seismic alteration. Replacement of architectural elements, equipment, and other non-structural components that had to be removed to implement the mandatory or non-mandatory seismic retrofit is considered part of that seismic work and is not considered non-seismic alteration.*

**A.2.4. Structural calculations.** Submitted calculations shall include all information needed to support and validate the submitted plans and to demonstrate compliance with this Bulletin. The calculations shall include:

1. A statement that the calculations are intended to comply with OMC Chapter 15.27.
2. For any non-mandatory seismic retrofit work or non-seismic alteration, a statement and description of the proposed engineering criteria.
3. A listing of existing conditions assumed for purposes of condition assessment and structural design, each of which shall also be identified on the plans as requiring verification during construction.
4. All building investigation, soils, geotechnical, condition assessment, or other supporting reports, as well as a summary of such reports indicating how the findings or conclusions are reflected in the structural calculations.
5. Identification of structural properties and capacities assumed for all existing materials and elements, including any capacity reductions for damage, deterioration, or defect.
6. Identification of structural properties and capacities assumed for all new materials and elements, including product literature for proprietary devices or systems.
7. If requested by the building official, verification calculations for any engineering software used.
8. Other information as required by the building official.

**A.3 Quality assurance**

**A.3.1 Structural observation.** Structural observation, in accordance with Section 1704.6 of the *California Building Code*, is required, regardless of seismic design category, height, or other conditions. Structural observation shall include visual observation of work for conformance to the approved construction documents and confirmation of existing conditions assumed during design.

**A.3.2 Contractor responsibility.** Contractor responsibility shall be in accordance with Section 1704.4 of the *California Building Code*.

**A.3.3 Testing and inspection.** Structural testing and inspection for new construction materials, submittals, reports, and certificates of compliance, shall be in accordance with Sections 1704 and 1705 of



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**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

the *California Building Code*. Work done to comply with OMC Chapter 15.27 shall not be eligible for Exceptions 1, 2, or 3 to *California Building Code* Section 1704.2 or for the Exception to *California Building Code* Section 1705.12.2.



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**Part B. Engineering Criteria for Mandatory Seismic Evaluation and Schematic Retrofit Report**

*Commentary: With reference to the Compliance Deadlines table above, Part B addresses "Step 3: Perform mandatory evaluation and submit initial affidavit of compliance." OMC Section 15.27.050.C calls for an evaluation and a schematic retrofit report, with criteria given in OMC Section 15.27.165. The purpose of the evaluation and schematic retrofit report is to provide the owner with information about seismic risks other than the vulnerable target story, especially risks that are expected to be relatively easy to mitigate while the target story is retrofitted. If deficiencies identified by this evaluation are proposed to be retrofitted, that work is considered non-mandatory seismic retrofit.*

**B.1 Reference standard.** The mandatory seismic evaluation shall use the 2017 edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41-17], referenced here as ASCE 41.

*Commentary: Use of ASCE 41 is specified by OMC Section 15.27.165.*

**B.2 Scope of evaluation.** The mandatory seismic evaluation shall include all procedures prescribed by ASCE 41 for a Tier 1 Screening with a performance objective of Nonstructural Life Safety with the BSE-1E hazard. Using ASCE 41 Table 17-38, the scope of the evaluation shall consider at least the following potential deficiencies located anywhere in the building:

- Hazardous Materials: Shutoff Valves, Flexible Couplings
- Partitions: Unreinforced Masonry (including boiler room partitions)
- Masonry Veneer: Ties, Shelf Angles, Weakened Planes, Unreinforced Masonry Backup, Anchorage, Weep Holes
- Parapets, etc.: URM Parapets or Cornices, Canopies, Concrete Parapets, Appendages
- Masonry Chimneys: URM Chimneys, Anchorage
- Mechanical and Electrical Equipment: Fall-Prone Equipment (including gas-fueled water heater tanks).

*Commentary: In accordance with OMC Section 15.27.165, "The Bureau of Building is authorized to determine the required scope of the building evaluation." This section of the Bulletin gives the Bureau's required minimum scope. The scope was determined by considering potential falling hazards, egress hazards, and fire hazards that are likely to be cost-effectively identified and mitigated during the course of the target story retrofit.*

*Compliance with this section is independent from, and does not relieve the owner of responsibility for, compliance with any other housing or building regulation, including review of decks and balconies.*

*A template with the listed items from ASCE 41 Table 17-38 is available on the program website.*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**B.3 Schematic retrofit report.** For each evaluation scope item classified as Noncompliant or Unknown, a schematic retrofit report shall briefly describe a mitigation measure that, if implemented, would allow the scope item to be reclassified as Compliant or Not Applicable.

*Commentary: OMC Section 15.27.050.C calls for a "schematic retrofit report" to accompany the evaluation. Design calculations, drawings, and cost estimates are not required but may be provided by agreement between the Owner and the design professional.*

**B.4 Affidavit of compliance.** The Owner shall timely submit to the Bureau of Building an affidavit of compliance with the minimum requirements described in this Part.

*Commentary: In accordance with OMC Section 15.27.050.F, compliance with the Step 3 requirements is demonstrated by submitting a signed affidavit. A blank affidavit form is available on the program website.*

*The engineer responsible for the evaluation and schematic retrofit report need not sign the affidavit but may prepare the affidavit for the Owner's signature and may submit it on the Owner's behalf. The evaluation and schematic retrofit report itself need not be submitted and will not be reviewed or approved by the Bureau. While the affidavit is required to show compliance with OMC Chapter 15.27, there is no requirement in Chapter 15.27 for the Owner to address any potential deficiencies identified by the evaluation.*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**Part C. Engineering Criteria for Target Story Retrofit Using CEBC Chapter A4**

**C.1 Reference code.** Appendix Chapter A4 of the current edition of the *California Existing Building Code* (Chapter A4), as adopted and amended by OMC Title 15 and as further modified and interpreted by Section C.2 of this Bulletin, shall be permitted as the criteria for mandatory seismic retrofit to comply with OMC Chapter 15.27. Any code references within Chapter A4 shall be construed to refer to the corresponding provisions of the *California Building Code* (CBC), the *California Existing Building Code* (CEBC), and their reference standards, as adopted and amended by the City of Oakland.

*Commentary: OMC Section 15.27.170 allows either CEBC Chapter A4 or ASCE 41 to be used as the retrofit design criteria. Therefore, Part C allows but does not require Chapter A4. (Part D covers the use of ASCE 41.) Some buildings subject to OMC Chapter 15.27 will be able to comply by evaluation, with no retrofit needed, but only ASCE 41 (as interpreted in Part D) is allowed as the basis for compliance by evaluation, since Chapter A4 is not written as an evaluation methodology.*

*The current CEBC is the 2016 edition. When the 2019 CEBC becomes effective, it will be applicable instead. The 2019 Chapter A4 will be based on the 2018 International Existing Building Code (IEBC) and is essentially identical to the 2015 IEBC (and 2016 CEBC) versions. Both editions as published by ICC are available in read-only mode at <https://codes.iccsafe.org/public/collections/I-Codes>. Until the 2019 CEBC becomes effective, the 2018 IEBC Chapter A4 may be used instead of the 2016 CEBC Chapter A4, with building official approval.*

*OMC Section 15.27.170 also allows the California Historical Building Code as retrofit criteria for eligible historic buildings. Demonstration of eligibility and modifications to Chapter A4 based on the CHBC should be proposed and will be approved on a case-by-case basis.*

*The commentary below also refers in places to FEMA P-807 (May 2012), titled Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories, available at: [https://www.fema.gov/media-library-data/20130726-1916-25045-2624\\_femap\\_807.pdf](https://www.fema.gov/media-library-data/20130726-1916-25045-2624_femap_807.pdf)*

**C.2 Modification and interpretation of CEBC Chapter A4**

The following modifications and interpretations refer to Chapter A4 section numbers.

**A401.2 Scope.** *Omit this section.*

*Commentary: In the context of OMC Chapter 15.27, the applicability of Chapter A4 is established by the Ordinance and by the definition of Subject Buildings in OMC Section 15.27.030.*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**A402 Definitions.** *Add, omit, or revise as follows:*

**GROUND FLOOR.** *Omit this definition.*

*Commentary: This term is omitted because it is unnecessary and could be confused with the new term Target Story. In Chapter A4, the term is used in only two places: the exception to A403.2, which is omitted (see below), and A404.1, where the plain English meaning is sufficient.*

**STORY STRENGTH.** *Omit this definition.*

*Commentary: This definition is omitted because it is unnecessary and to avoid conflict with "expected story strength" as used in Section A403.3.1. It is used only once in Chapter A4, in the definition of "weak wall line," but that definition is itself unnecessary because of the new definition of Target Story.*

**TARGET STORY.** Either (1) a basement story or underfloor area that extends above grade at any point or (2) any story above grade, where the wall configuration of such basement, underfloor area, or story is substantially more vulnerable to earthquake damage than the wall configuration of the story above, except that a story is not a target story if it is the topmost story or if the difference in vulnerability is primarily due to the story above being a penthouse or an attic with a pitched roof.

*Commentary: This definition, given in OMC Section 15.27.150, is added as a preferred way to refer to the structural deficiency of interest in Chapter A4 and the subject of mandatory seismic retrofit.*

- *The definition simplifies and clarifies the Chapter A4 terminology. Chapter A4 and this Bulletin call for consideration of whole stories, but Chapter A4 only defines its critical deficiencies in terms of wall lines and does not clearly recognize complexities posed by sloped sites (e.g. the target story might not be the ground story, and a building might have more than one target story). That said, any story that contains a soft wall line, a weak wall line, or an open-front wall line as defined in Chapter A4 would normally be considered a target story.*
- *Because the definition is not quantitative, it usefully relies on the judgment of engineers or other qualified design professionals; Step 1, described in the Compliance Deadlines table above, offers each owner noticed by the City an opportunity to demonstrate that the building in question has no target stories or wood frame target stories.*
- *By including underfloor areas, the definition avoids confusion about crawl spaces and the building code definition of "story," especially on sloped sites.*
- *The definition facilitates coordination with similar programs in Berkeley and San Francisco and with the voluntary SHOP program already in effect in Oakland.*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**WOOD FRAME TARGET STORY.** A target story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.

*Commentary: Together with the definition of target story, this definition, also given in OMC Section 15.27.150, identifies the deficiency of interest in Chapter A4 and the subject of mandatory seismic retrofit. As with the definition of target story, the definition of wood frame target story relies intentionally on the judgment of design professionals.*

**A403.1 General.** Omit the exception and revise the first sentence as follows: All modifications required by the provisions in this chapter shall be designed in accordance with the *California Building Code* provisions for new construction, except as modified or otherwise allowed by this chapter and by TB 15.27-1.

*Commentary: The exception is omitted because the additional phrase "or otherwise allowed" makes it moot.*

**A403.2 Scope of analysis.** References to "soft, weak, or open-front wall line" shall be taken to mean "wood frame target story." Omit the exception.

*Commentary: By substituting the definition of wood frame target story, this modification clarifies the scope of work. (It also makes the two sentences about podium structures and hillside conditions largely moot.) The exception is omitted because it improperly focuses on individual wall lines; any reduced retrofit scope should be justified by full-story calculations. Also, many cases that would be covered by the exception are also covered by the prescriptive solution of Section A404.*

**A403.3 Design base shear and design parameters.** Correct  $\Delta_0$  to  $\Omega_0$  in multiple places. Add Exceptions 4 and 5 and subsections A403.3.1 and A403.3.2:

*Commentary: Where applicable, the allowance for a capped base shear coefficient in ASCE 7 Section 12.8.1.3 may be applied so that the value of  $0.75S_{DS}$ , including the 75 percent factor allowed by Chapter A4 Section A403.3, need not be taken greater than 1.00.*

**Exception 4:** For retrofit systems involving different seismic force-resisting systems in the same direction within the same story, resisting elements are permitted to be designed using the least value of  $R$  for the different structural systems found in each independent line of resistance if the following conditions are met: (1) The building is assigned to Risk Category I or II (2) The building height is no more than four stories above grade plane, and (3) the seismic force-resisting systems of the retrofitted building comprise only wood structural panel shear walls, steel moment-resisting frames, steel cantilever columns, and steel braced frames. Values for  $C_d$  and  $\Omega_0$  shall be consistent with the  $R$  value used.

**Exception 5:** With reference to ASCE 7 Table 12.2-1, ordinary, intermediate, and special steel systems and all light-frame systems shall be permitted without limitation where those systems are used only for retrofit of target stories.



CITY OF OAKLAND

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**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*Commentary: More than one of the exceptions to Section 403.3 can apply in a single building. Added Exception 4 implements the SEAONC recommendation to allow retrofit schemes that involve different structural systems on different lines. Without this exception, a retrofit using an intermediate or ordinary steel frame along one line and wood structural panels elsewhere would be forced to over-design the wood elements. Exception 5 recognizes that height limits applicable when certain structural systems are used for a whole building should not apply when the same system is used only within a single story. In this regard, Exception 5 is like Exceptions 1 through 3, in that it decouples the design of the new retrofit system from non-conforming conditions in the existing structure.*

**A403.3.1 Expected story strength.** Despite any other requirement of Section A403.3 or A403.4, the total expected strength of retrofit elements added to any target story need not exceed 1.7 times the expected strength of the story immediately above in a two-story building, or 1.3 times the expected strength of the story immediately above in a three-story or taller building, as long as the retrofit elements are located symmetrically about the center of mass of the story above or so as to minimize torsion in the target story. Calculation of expected story strength and identification of irregularities in Section A403.3 shall be based on the expected strength of all wall lines, even if sheathed with nonconforming materials. The strength of a wall line above the target story may be reduced to account for inadequate load path or overturning resistance.

*Commentary: This added provision implements the allowance in OMC Section 15.27.170 that "the strength of a retrofitted Target Story need not exceed that required to develop the strength of stories above." It is based on a SEAONC recommendation to cap the required strength, consistent with FEMA P-807. The expected strength of the story above may be calculated using the FEMA P-807 criteria. If the strength is reduced to account for an inadequate load path, as allowed, the load path should be documented by field observation and condition assessment; otherwise, the strength calculation should assume an adequate load path to avoid underestimating the upper story strength.*

**A403.3.2. Seismicity parameters, Site Class, and geologic hazards.** Any building located in an area labeled "NEHRP E" on the latest USGS map of "Soil Type and Shaking Hazard in the San Francisco Bay Area" shall be assigned to Site Class E unless site-specific investigation in accordance with ASCE 7 Chapter 20 indicates otherwise. For any site designated as Site Class E, the value of  $F_a$  shall be taken as 1.3. Site-specific procedures are not required for compliance with OMC Chapter 15.27. Compliance with OMC Chapter 15.27 does not require mitigation of existing geologic site hazards such as liquefiable soil, fault rupture, or landslide.

*Commentary: Other than this provision regarding Site Class E, Site Class shall be determined following the normal procedures for new construction, including the use of Site Class D as a default. The USGS map of Bay Area site classes is at <https://earthquake.usgs.gov/hazards/urban/sfbay/soiltype/map>.*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*Seismic hazard parameters as needed may be obtained from the SEAOC/OSHPD Seismic Design Maps, using "2015 IBC" as the Reference, at <https://seismicmaps.org/> or from the ATC Hazards by Location tool at <https://hazards.atcouncil.org/>.*

*Neither the SEAOC/OSHPD nor the ATC application, however, implements the additional requirement to take  $F_a$  as 1.3 in Site Class E; design professionals will need to make that adjustment separately. This requirement implements a SEAONC recommendation related to observed performance and recorded ground motions in the Loma Prieta earthquake.*

*The site-specific ground motion procedures normally required by ASCE 7 Section 11.4.8 are waived for these retrofit projects. Many buildings eligible for CEBC Chapter A4 would be exempt from site response analysis in any case by the exception to ASCE 7 Section 20.3.1. Similarly, mandatory seismic retrofit to comply with OMC Chapter 15.27 is deemed exempt from requirements of the Alquist-Priolo Earthquake Fault Zoning Act because the cost of the mandatory work is not expected to exceed 50 percent of the value of the structure (California Public Resources Code Section 2621.7).*

**A403.7 Collector elements.** *Revise this section to read, "Collector elements shall be provided to transfer the seismic forces between the elements within the scope of Section A403.2."*

*Commentary: This provision is revised to eliminate potential confusion over the words "other portions of the building," which could be misread to mean even parts of the building outside the scope identified in Section A403.2.*

**A403.8 Horizontal diaphragms.** *Replace the entire section as follows:*

**A403.8. Floor diaphragms.** Floor diaphragms within the scope of Section A403.2 shall be shown to have adequate strength at the following locations:

1. For straight lumber sheathed diaphragms without integral hardwood flooring: Throughout the diaphragm. At the discretion of the building official, this requirement may be waived where the condition occurs only in relatively small portions of each dwelling unit.
2. For all other diaphragms: At locations where forces are transferred between the diaphragm and each new or strengthened vertical element of the seismic force-resisting system. Collector elements shall be provided where needed to distribute the transferred force over a greater length of diaphragm.

**Exception:** Where the existing vertical elements of the seismic force-resisting system are shown to comply with OMC Chapter 15.27 by evaluation, diaphragms need not be evaluated.

*Commentary: This replacement implements an interpretation considered appropriate for the limited objective of Chapter A4. The exception allows compliance by evaluation (Part D of this Bulletin) to focus on the vertical SFRS elements – the walls and frames – without considering a diaphragm deficiency by itself to justify an intrusive retrofit.*

*Straight lumber sheathed diaphragms without integral hardwood flooring are weaker and more flexible than other diaphragm systems. Though there are no known collapses due to this*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*condition, expected poor performance could compromise the building's ability to meet even the limited objective of Chapter A4. Integral hardwood flooring – but not newer “floating” wood flooring – provides significant added strength and stiffness. Even in buildings with original hardwood flooring, some remodeled, carpeted, or tiled areas might have had the original wood flooring removed. Areas of the diaphragm that form a roof for the target story (such as the portion of a garage that extends beyond the wall line above, or at a lightwell or building setback) are also unlikely to have hardwood flooring to supplement the straight sheathing. These areas should be identified as part of the condition assessment and evaluated. Small isolated areas without hardwood flooring are not expected to affect overall building performance, so the provision grants a waiver for these cases. As a rule of thumb, an area up to 150 square feet per unit might represent such an acceptable condition.*

*For other less vulnerable diaphragm types, the provision requires a local check for each new or strengthened SFRS element but does not require an overall analysis of the full diaphragm. The unit shear demand at each vertical element is calculated as the force in the element divided by the total length of the element and its collectors. The shear demand is then compared to the unit shear capacity of the diaphragm. Where demand is greater than capacity, either the diaphragm must be strengthened or the collector lengthened. An existing diaphragm can be strengthened by adding a wood structural panel soffit to the bottom of the floor joists in the critical area. Diaphragm capacity need not be checked at existing vertical elements that are not strengthened because (except for straight lumber sheathed diaphragms) it is assumed that the unit capacities of the existing vertical elements and the diaphragm are comparable.*

**A403.9 Wood-framed shear walls.** *Add the following sentence at the end of the provision: Where new sheathing is applied to existing studs to create new wood-framed shear walls, the new wall elements shall be considered bearing wall systems for purposes of determining seismic design parameters.*

*Commentary: Since existing studs are presumed to carry existing gravity loads, the walls they frame must be considered bearing walls, as opposed to “building frame” systems. This affects the selection of seismic design coefficients  $R$ ,  $C_d$ , and  $\Omega_0$ .*

**A403.9.1 Gypsum or cement plaster products.** *Replace the entire provision as follows: Gypsum or cement plaster products shall not be used to provide the strength required by Section A403.3 or the stiffness required by Section A403.4.*

*Commentary: Since Chapter A4 is based on code provisions for new construction, code provisions and standards that allow like materials do not apply, and non-conforming materials are not allowed to be counted toward the minimum required strength. They must be considered, however, if the cap in Section 403.3.1 is applied, which is why the provision is modified.*

*Add Section A403.10 and subsections A403.10.1 and A403.10.2:*

**A403.10 Steel retrofit systems.** Steel retrofit systems shall have strength and stiffness sufficient to resist the seismic loads and shall conform to the requirements of this section.



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**A403.10.1 Special moment frames.** Steel special moment frames shall comply with all applicable provisions of AISC 341, including but not limited to connection design and lateral bracing of beams. It is permitted to employ approved commercially available proprietary frame systems to achieve the special moment frame classification.

**Exception:** The “strong-column/weak-beam” provision of AISC 341-10, Section E3.4a is waived, provided that the columns carry no gravity load.

**A403.10.2 Intermediate or ordinary moment frames.** Steel intermediate or ordinary moment frames shall comply with all applicable provisions of AISC 341.

*Commentary: See Section A403.3 Exception 5 as added by this Bulletin for a waiver on height limits otherwise applicable to these systems.*

**A403.10.3 Cantilevered column systems.** Steel special or ordinary cantilevered column systems shall comply with all applicable provisions of AISC 341.

**A403.10.4 Inverted moment frame systems.** Cantilevered column systems shall be permitted to be designed as inverted special, intermediate, or ordinary moment frames, with corresponding moment frame seismic design coefficients, where the system satisfies the following conditions:

1. The columns carry no gravity load.
2. The columns are configured in pairs (or larger groups) connected by a continuous reinforced concrete foundation or grade beam.
3. The foundation or grade beam shall be designed to resist the expected plastic moment at the base of each column, computed as  $R_p F_p Z$  in accordance with AISC 341.
4. The flexibility of the foundation or grade beam, considering cracked section properties of the reinforced concrete, shall be included in computing the deformation of the steel frame system.
5. The columns shall be considered as twice their actual height when checking lateral torsional buckling.

*Commentary: This provision implements a SEAONC recommendation developed to accommodate a modification of traditional cantilevered column systems. Cantilevered column systems for new construction are normally assigned seismic design coefficients that severely limit their use. When used for retrofit of wood frame structures, however, the columns are less vulnerable to buckling failure because they carry no gravity load. SEAONC has therefore recommended that these cantilever column systems, configured as upside-down moment frame bents (with concrete cross beams), should be allowed to be designed as moment frame systems.*

**A404.1 Limitation.** In the first sentence, omit the words “and only where deemed appropriate by the code official.”

*Commentary: These prescriptive measures are deemed appropriate for compliance with OMC Chapter 15.27.*



CITY OF OAKLAND

Planning and Building Department  
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**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**A405.3 Existing materials.** *No modification, but see commentary.*

*Commentary: While an overall condition assessment is often beneficial, this provision is applicable primarily to the existing structural elements that will be relied on to provide the required strength and stiffness. If the cap allowed in Section 403.3.1 is used, this will include all existing elements contributing to the expected story strength in each target story and the story above, as well as diaphragms and foundations. If the cap is not used, the condition assessment may be limited to just the structural scope identified in Section A-403.2. ASCE 41-17 provisions and commentary for condition assessment may be useful as a guide to the work. The investigation should be based on a combination of non-destructive testing or inspection, destructive testing or inspection, and reference to record documents. Where record documents are used to reduce the scope of testing or other on-site work, appropriate field verification is normally required. The building official is authorized to require additional investigation as needed to fulfill the purpose of the condition assessment. Findings of the condition assessment should be included with the structural calculations per Section A.2.4 of this Bulletin.*

*With the approval of the building official, field verification of assumed conditions may be performed during construction; in these cases adjustments to previously approved structural calculations and plans might be needed, which is why Section A.2.3 of this Bulletin calls for field verification items to be shown on the plans.*

**A405.3.6 Existing masonry partitions.** *Add this subsection:* Masonry partitions or fire separation walls within a target story shall be investigated to determine their capacity to resist story shears and deformations, whether intended as seismic force-resisting elements or not. The investigation shall consider their material strength and condition, grouting and reinforcing, connections and continuity to stories above and foundation below, and related detailing and load path as they relate to likely performance in in-plane shear, out-of-plane shear, overturning moment, and uplift. Based on the investigation, the design professional shall document and substantiate a design approach and acceptability criteria.

*Commentary: Some Oakland buildings are known to have concrete masonry fire separation partitions that might act as de facto seismic force-resisting elements, even if not designed to carry lateral forces and not detailed for ductile response. Since the construction of these partitions is not well documented, it is the responsibility of the design professional to understand their likely performance and to account for it in the retrofit design. In some cases, the walls might be usable as SFRS elements (as is, or as strengthened). In other cases, it might be preferable to isolate them from the seismic response by breaking the lateral load path, as long as necessary fire safety and support for gravity loads is maintained.*

**A405.3.7 Existing unreinforced brick footings.** *Add this subsection:* The capacity of an existing brick footing to resist shear or pullout of an existing or new anchor shall be established by testing or by reference to approved tests of similar conditions.



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*Commentary: Older buildings might have unreinforced brick footings. In general, these are unlikely to be adequate for new or strengthened shear walls, but the added provision allows a method to substantiate their capacity.*

**A406.1 General.** *Omit this subsection.*

*Commentary: Section A.2.3 of this Bulletin replaces Chapter A4 Section A406.1.*

**A406.2 Existing construction.** *Add the following sentence to this subsection: If the cap allowed by Section A403.3.1 is used to limit the scope of retrofit, the foregoing information shall be shown for each target story and at least one story above the uppermost target story. If the cap allowed by Section A403.3.1 is not used, the foregoing information need only be shown for each target story and for the floor immediately above the uppermost target story.*

**A407.1 Structural observation, testing and inspection.** *Omit this subsection.*

*Commentary: Section A.3 of this Bulletin replaces Chapter A4 Section A407.1.*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

**Part D. Engineering Criteria for Target Story Evaluation or Retrofit Using ASCE 41**

**D.1 Reference standard.** ASCE 41, the 2017 version of *Seismic Evaluation and Retrofit of Existing Buildings*, as modified and interpreted by Section D.2 of this Bulletin, shall be permitted as the criteria for evaluation of existing target stories and for mandatory seismic retrofit where such retrofit is required.

*Commentary: OMC Section 15.27.170 allows either ASCE 41 or CEBC Chapter A4 to be used as the retrofit design criteria. Therefore, Part D allows but does not require ASCE 41. (Part C covers the use of Chapter A4 for target story retrofit.) The phrase "where such retrofit is required" refers to the possibility that a subject building might comply by evaluation, with no retrofit needed. ASCE 41 may also be used as the basis for compliance by evaluation.*

**D.2 Definitions (ASCE 41 Section 1.2.1)**

**TARGET STORY.** Either (1) a basement story or underfloor area that extends above grade at any point or (2) any story above grade, where the wall configuration of such basement, underfloor area, or story is substantially more vulnerable to earthquake damage than the wall configuration of the story above, except that a story is not a target story if it is the topmost story or if the difference in vulnerability is primarily due to the story above being a penthouse or an attic with a pitched roof.

*Commentary: This definition, given in OMC Section 15.27.150, is added as a preferred way to refer to the structural deficiency of interest and the subject of mandatory seismic retrofit.*

- *Because the definition is not quantitative, it usefully relies on the judgment of engineers or other qualified design professionals; Step 1, described in the Compliance Deadlines table above, offers each owner noticed by the City an opportunity to demonstrate that the building in question has no target stories or wood frame target stories.*
- *By including underfloor areas, the definition avoids confusion about crawl spaces and the building code definition of "story," especially on sloped sites.*
- *The definition facilitates coordination with similar programs in Berkeley and San Francisco and with the voluntary SHOP program already in effect in Oakland.*

**WOOD FRAME TARGET STORY.** A target story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.

*Commentary: Together with the definition of target story, this definition, also given in OMC Section 15.27.150, identifies the deficiency of interest and the subject of mandatory seismic retrofit. As with the definition of target story, the definition of wood frame target story relies intentionally on the judgment of design professionals.*

**D.3 Scope of evaluation or retrofit (ASCE 41 Section 1.1)**

**D.3.1 Elements to be considered.** Evaluation or retrofit to comply with OMC Chapter 15.27 need only consider the lateral load path elements from the wood diaphragm immediately above any wood frame



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

target story to the foundation soil interface. Stories above the uppermost wood frame target story shall be considered in the analysis but need not be modified. The lateral-load-path analysis for added structural elements shall include evaluation of the allowable soil-bearing and lateral pressures in accordance with the building code.

*Commentary: Normally, ASCE 41 is applied to an entire building or structure. OMC Section 15.27.160, however, makes clear that the intent of the chapter is to apply only to the building's wood frame target stories. The wording is consistent with the similar scope of CEBC Chapter A4, Section A403.2.*

**D.3.2 Required Retrofit Strength.** Despite any other requirement of ASCE 41, the total expected strength of retrofit elements added to any target story need not exceed 1.7 times the expected strength of the story immediately above in a two-story building, or 1.3 times the expected strength of the story immediately above in a three-story or taller building, as long as the retrofit elements are located symmetrically about the center of mass of the story above or so as to minimize torsion in the target story. Calculation of expected story strength and identification of irregularities shall be based on the expected strength of all wall lines, even if sheathed with nonconforming materials. The strength of a wall line above the target story may be reduced to account for inadequate load path or overturning resistance.

*Commentary: This added provision implements the allowance in OMC Section 15.27.170 that "the strength of a retrofitted Target Story need not exceed that required to develop the strength of stories above." This provision is consistent with this Bulletin's addition of Section A403.3.1 to CEBC Chapter A4 (see Part C). The provision is based on a SEAONC recommendation to cap the required strength, consistent with FEMA P-807. Strictly speaking, the allowance should not be needed if the ASCE 41 rules for selecting analysis procedures and for modeling secondary components are carefully followed. In concept, the strength cap could be applied to all elements (new and existing) in the target story, but it is applied only to retrofit elements to ensure that some ductility, reliability, and torsion control is provided.*

*The expected strength of the story above may be calculated using the FEMA P-807 criteria. If the strength is reduced to account for an inadequate load path, as allowed, the load path should be documented by field observation and condition assessment; otherwise, the strength calculation should assume an adequate load path to avoid underestimating the upper story strength.*

**D.4 Modification and interpretation of ASCE 41**

**D.4.1 Performance Objective (ASCE 41 Sections 1.4.1 and 1.5.2).** For either evaluation or retrofit, the performance objective shall be Structural Life Safety in the BSE-1E seismic hazard.

*Commentary: This objective is given in OMC Section 15.27.170.B. It need only be applied to the building elements identified in Bulletin Section D.3.1. As such, the mandatory seismic retrofit contemplated by OMC Chapter 15.27 is, in ASCE 41 terms, a partial retrofit in accordance with ASCE 41 Section 2.2.5.*

*OMC Chapter 15.27 does not require any nonstructural retrofit. See Bulletin Part B regarding*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*mandatory nonstructural evaluation.*

**D.4.2 Seismic hazard, seismicity parameters and Site Class (ASCE 41 Section 2.4).** Any building located in an area labeled “NEHRP E” on the latest USGS map of “Soil Type and Shaking Hazard in the San Francisco Bay Area” shall be assigned to Site Class E unless site-specific investigation in accordance with ASCE 7 Chapter 20 indicates otherwise. For any site designated as Site Class E, the value of  $F_a$  shall be taken as 1.3. Site-specific procedures are not required for compliance with OMC Chapter 15.27.

*Commentary: Other than this provision regarding Site Class E, Site Class shall be determined following the normal procedures for new construction, including the use of Site Class D as a default. The USGS map of Bay Area site classes is at <https://earthquake.usgs.gov/hazards/urban/sfbay/soiltype/map>.*

*Seismic hazard parameters as needed may be obtained from the SEAOC/OSHPD Seismic Design Maps, using “2015 IBC” as the Reference, at <https://seismicmaps.org/> or from the ATC Hazards by Location tool at <https://hazards.atcouncil.org/>.*

*Neither the SEAOC/OSHPD nor the ATC application, however, implements the additional requirement to take  $F_a$  as 1.3 in Site Class E; design professionals will need to make that adjustment separately. This requirement implements a SEAONC recommendation related to observed performance and recorded ground motions in the Loma Prieta earthquake.*

*The site-specific ground motion procedures normally required by ASCE 7 Section 11.4.8 are waived for these retrofit projects. Many buildings eligible for CEBC Chapter A4 would be exempt from site response analysis in any case by the exception to ASCE 7 Section 20.3.1. Similarly, mandatory seismic retrofit to comply with OMC Chapter 15.27 is deemed exempt from requirements of the Alquist-Priolo Earthquake Fault Zoning Act because the cost of the mandatory work is not expected to exceed 50 percent of the value of the structure (California Public Resources Code Section 2621.7).*

**D.4.3 Benchmark Buildings (ASCE 41 Section 3.3).** In ASCE 41 Table 3-2, the benchmark code of 1976 UBC for Building Types W1 and W2 does not apply.

*Commentary: Per OMC Section 15.27.030, the chapter applies to buildings constructed before 1991 or designed with the 1985 or earlier edition of the Uniform Building Code. Most buildings subject to OMC Chapter 15.27 will be type W1a and will therefore not be eligible for benchmarking with ASCE 41 Table 3-2, but this restriction is made for buildings that might be classified as type W1 or W2.*

**D.4.4 Performance Level and Seismic Hazard Level (ASCE 41 Sections 4.1.1 and 4.1.2).** These sections do not apply.

*Commentary: These ASCE 41 sections are moot, since the performance objective is given in Bulletin Section D.4.1. Since the given objective is consistent with the ASCE 41 “BPOE” objective, the Tier 1 and Tier 2 procedures are appropriate for buildings evaluated or retrofitted*



**Technical Bulletin (TB) 15.27-1**  
**Engineering Requirements for Complying with**  
**Oakland Municipal Code Chapter 15.27**

*for compliance with OMC Chapter 15.27.*

**D.4.5 Selection and use of checklists (ASCE 41 Section 4.3).** For evaluation of Structural Life Safety, the Tier 1 screening checklists for Collapse Prevention shall be used, except that checklist statements using Quick Check procedures shall be based on values provided for Life Safety performance.

*Commentary: In ASCE 41-17, checklists are provided for the Immediate Occupancy and Collapse Prevention structural performance levels, but not explicitly for Life Safety. This provision clarifies how to use the checklists for the OMC Chapter 15.27 objective. It is consistent with footnote d to ASCE 41 Table 2-2.*

**D.4.6 Structural compliance (ASCE 41 Section 4.3 and Table 17-2).** Compliance with OMC Chapter 15.27 using ASCE 41 requires full compliance with all applicable ASCE 41 provisions, unless specifically noted in this Bulletin. A finding of “Compliant” for the Weak Story and/or Soft Story Tier 1 checklist items shall not by itself indicate compliance with OMC Chapter 15.27.

**D.4.7 Geologic site hazards (ASCE 41 Section 4.3 and Table 17-2).** ASCE 41 Tier 1 checklist items for Liquefaction, Slope Failure, and Surface Fault Rupture do not apply.

*Commentary: Compliance with OMC Chapter 15.27 does not require mitigation of existing geologic site hazards.*

**D.4.8 Modeling Primary and Secondary Components (ASCE 41 Section 7.2.3.3)** Only primary components are to be modeled in linear analyses. In particular, for purposes of establishing the distribution of story forces, discontinuous upper story walls and partitions should not be modeled unless their stiffness is reduced to account for lack of overturning resistance or load path to elements below.

*Commentary: This provision is consistent with this Bulletin's addition of Section A403.3.1 to CEBC Chapter A4 (see Part C). See also the commentary to Bulletin Section D.3.2.*

**D.4.9 Modeling Overturning (ASCE 41 Section 7.2.8).** Where dead loads alone are used to resist overturning, existing walls without hold-downs should be considered force-controlled for purposes of checking overturning. Existing walls without hold-downs may be considered deformation-controlled for purposes of checking shear strength, as long as the demands and capacities assigned to them account for the lack of hold-downs. Alternatively, where in accordance with ASCE 41 provisions for designating secondary elements, existing walls without hold-downs may be designated as secondary and removed from the linear model for purposes of distributing design forces to retrofit elements.

# ATTACHMENT E

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## Statement of Qualifications

**OAKLAND HOUSING AUTHORITY  
CONTRACT COMPLIANCE & GENERAL SERVICES (CCGS)**

**QUALIFICATIONS STATEMENT**

This statement must be fully completed and submitted with the bid. (It shall be retained on file for one calendar year.)

*All questions must be answered, with responses clear and complete. Attach additional pages if needed.*

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

Submitted by: \_\_\_\_\_

(Contact Person)

Company Name: \_\_\_\_\_

Phone #/Email: \_\_\_\_\_

Business License #: \_\_\_\_\_

**A. Organization**

- How many years has your company been in business in the State of California for the type of work you are submitting a bid for?
- How many years has your company been in business under its present business name in the State of California?
- If your company is a corporation, answer the following:
  - i. Date of incorporation:
  - ii. State of incorporation:
  - iii. President's name:
  - iv. Applicable business and trade licenses:
- If your company is a partnership, answer the following:
  - i. Date of licensing:
  - ii. Type of partnership:
  - iii. Name(s) of general partner(s):
- If your company is individually owned, answer the following:
  - i. Date of licensing:
  - ii. Name of owner:
- How many employees does your company currently employ?

**B. Licensing**

- List jurisdictions and trade categories in which your company is legally qualified to do business and indicate registration or license numbers, if applicable.

**C. Experience:**

- List all Claims and Suits within the last five (5) years. (If the answers to any of the questions below are yes, please attach details.)

- Has your company ever failed to complete any work awarded to it?  
 **Yes**      **No**

If yes, what was the name of the contract and what was the reason for default?

- Has your company ever refused to sign a contract after award of the bid?  
 **Yes**      **No**

If yes, what was the name of the contract and reason for refusal?

- Has your company or subsidiaries or principals ever been debarred from government contracts?  
 **Yes**      **No**

If yes, please identify party and state the reason.

- Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your company or its officers? If so, please list.  
 **Yes**      **No**
- Has your company filed any law suits or requested arbitration with regards to design and construction contracts within the last five years? If so, please list.  
 **Yes**      **No**

**D. Insurance/Financial Information:**

- Name of Insurance Carrier:
- Name and address of agent:
- Upon request, will you complete a detailed financial statement and furnish any other information required by the Oakland Housing Authority?  
 **Yes**      **No**

The undersigned bidder hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the Oakland Housing Authority discovers that any information entered herein is false, that shall entitle the Oakland Housing Authority to not consider nor make award or to cancel any award with the undersigned party.

**The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information request by the Oakland Housing Authority, verifying the declarations included in this Statement of Qualifications.**

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

Title: \_\_\_\_\_

# ATTACHMENT F

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## Profile & Certification Form

**PROFILE AND CERTIFICATION FORM (Page 1 of 2)**

(1) Prime \_\_\_\_ Sub-contractor \_\_\_\_ (This form must be completed by and for each).

(2) Name of Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

(3) Street Address, City, State, Zip: \_\_\_\_\_

(4) Primary Contact for this Project: \_\_\_\_\_ Email Address: \_\_\_\_\_

(5) Identify Principals/Partners in Firm (Attach *professional resumes* for each):

NAME	TITLE	% OF OWNERSHIP

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please attach *professional resumes* for each. (Do not duplicate any resumes required above):

NAME	TITLE

(7) Bidder Diversity Statement: You must circle all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

- Caucasian American (Male) \_\_\_\_\_%     
  Public-Held Corporation \_\_\_\_\_%     
  Government Agency \_\_\_\_\_%     
  Non-Profit Organization \_\_\_\_\_%

Resident- (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following:

- Resident-Owned\* \_\_\_\_\_%     
  African American \_\_\_\_\_%     
  \*\*Native American \_\_\_\_\_%     
  Hispanic American \_\_\_\_\_%     
  Asian/Pacific American \_\_\_\_\_%     
  Hasidic Jew \_\_\_\_\_%     
  Asian/Indian American \_\_\_\_\_%

- Woman-Owned (MBE) \_\_\_\_\_%     
  Woman-Owned (Caucasian) \_\_\_\_\_%     
  Disabled Veteran \_\_\_\_\_%     
  Small Business \_\_\_\_\_%     
  Other (Specify): \_\_\_\_\_%

If applicable, WMBE Certification Number: \_\_\_\_\_  
 Certified by (Agency): \_\_\_\_\_

(8) Federal Tax ID No.: \_\_\_\_\_

(9) Business Name as Listed on the California Secretary of State Website: \_\_\_\_\_

(10) California Secretary of State Entity Number: \_\_\_\_\_

(11) [APPROPRIATE JURISDICTION] Business License No.: \_\_\_\_\_

(12) State of \_\_\_\_\_ License Type and No.: \_\_\_\_\_

\* The undersigned party submitting this bid hereby certifies that the firm can meet and comply with OHA's "Section 3 Requirements" attached hereto. (See 'Section 3 Requirements Form and Action Plan')



## ATTACHMENT G

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HUD 5369-B, Instructions to Offerors, Non-Construction

# Instructions to Offerors Non-Construction

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing



- 03291 -

## 1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

## 2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

## 3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

## 4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

## 5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

## 6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the HA will be considered at any time it is received and may be accepted.

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

#### **7. Contract Award**

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

#### **8. Service of Protest**

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

#### **9. Offer Submission**

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

## ATTACHMENT H

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HUD 5369-C, Certification & Representation of Offerors,  
Non-Construction Contracts

# Certifications and Representations of Offerors

## Non-Construction Contract

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offerors to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

### 1. Contingent Fee Representation and Agreement

(a) The bidder/offeror represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offeror, the bidder/offeror:

- (1)  has,  has not employed or retained any person or company to solicit or obtain this contract; and
- (2)  has,  has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) If the answer to either (a)(1) or (a) (2) above is affirmative, the bidder/offeror shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offeror shall give the PHA the right to (1) terminate the resultant contract; (2) at its discretion, to deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

### 2. Small, Minority, Women-Owned Business Concern Representation

The bidder/offeror represents and certifies as part of its bid/offer that it:

- (a)  is,  is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b)  is,  is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c)  is,  is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- |   |   |
|---|---|
| <input type="checkbox"/> Black Americans    | <input type="checkbox"/> Asian Pacific Americans  |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans   |
| <input type="checkbox"/> Native Americans   | <input type="checkbox"/> Hasidic Jewish Americans |

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

(b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);  
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

#### 4. Organizational Conflicts of Interest Certification

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

(d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

#### 5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

#### 6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

#### 7. Offeror's Signature

The offeror hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

\_\_\_\_\_  
Signature & Date:

\_\_\_\_\_  
Typed or Printed Name:

\_\_\_\_\_  
Title:

## ATTACHMENT I

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### Contractor's Summary Guide to Section 3 Compliance with Section 3 Business Certification and Action Plan



Oakland Housing  
Authority

## Contractor's Summary Guide to Section 3 Compliance

The purpose of Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u) (section 3), and 24 CFR Part 135, is to ensure that training, employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns, which provide economic opportunities to low- and very low-income persons." **For the complete text of the Section 3 regulations, visit [www.hud.gov/section3](http://www.hud.gov/section3).**

### **Oakland Housing Authority's Section 3 Economic Opportunities Policy** (included in bid documents)

Oakland has one of the highest unemployment rates in the Bay Area. Oakland Housing Authority (OHA) residents make up over 10% of Oakland's population. OHA developed its **Economic Opportunities Policy** (EOP) to comply with the Housing and Urban Development (HUD) Section 3 regulations and ensure that, to the greatest extent feasible, economic opportunities are provided to low- and very low-income persons and to Section 3 business concerns within the city of Oakland. All contractors undertaking Section 3 covered projects and activities on behalf of OHA are expected, to the greatest extent feasible, to meet the numerical goals set forth below. The policy does not apply to contractors who furnish only materials or supplies and do not undertake installation of materials or supplies. The **EOP** is also available from OHA's website [www.oakha.org/procurement/sec3EcoOpportPolicy.pdf](http://www.oakha.org/procurement/sec3EcoOpportPolicy.pdf).

### **Section 3 Requirement for All Bidders**

As part of the application or bidding process, a Section 3 Business Preference and Action Plan are included in bid documents. Contractors have the option to request Certification as a Section 3 business; however, every proposer **MUST** complete the Action Plan and submit it with their bid, even if no hires are projected.

Certification for Business Seeking Section 3 Business Preference form: Everyone must complete the top portion (check one box, name of business etc.) and sign at the bottom. Fill in the other parts **ONLY** if you are claiming Section 3 business status.

Action Plan (3 pages): Everyone must complete the top portion listing your company etc., where applicable, and sign every page. If you **do not** anticipate new hires, note that in the table on page 1 and 3. If you **do** anticipate new hires, then use page 1 to detail the job categories and page 3 to describe how you will fill those positions.

### **Section 3 Requirements for Awardees**

#### **Baseline Reporting and Hiring Projections Form**

Prior to the Notice to Proceed, the contractor/subcontractor will be responsible for documenting the current workforce (baseline) and providing more accurate hiring projections per job classification than those described in the Action Plan. The Plan that is approved will become part of the contractual agreements.

#### **Hiring Goals**

The Section 3 requirement is triggered when there is a need for **new** economic opportunities, such as individual employment, contracting, or subcontracting. The regulation requires that contractors and subcontractors provide, **to the greatest extent feasible**, economic opportunities (training, employment, and contracting) to low and very-low income residents Section 3 businesses.

Contractors and subcontractors are required to make every effort to the greatest extent feasible to meet the OHA's numerical hiring goals of having Section 3 qualified employees make up **30% of their total new-hires**. **Firms must seek to maintain this percentage throughout the life of the project.** If these goals are not met, the contractors are expected to show documentation demonstrating their efforts to hire Section 3 candidates by exhausting all available hiring sources. While a contractor receives credit for hiring low-income residents of Oakland, **first priority should be given to residents of the Oakland Housing Authority**. This includes residents in both the public housing and Section 8 programs.

## Hiring Priorities

First priority (OHA residents): Residents of the development where the work is being performed  
Second priority (OHA residents): Other residents of Oakland Housing Authority owned or managed properties  
Third priority (Oakland residents): Other residents within the city of Oakland that meet the low-income requirements (see definition of **Section 3 Resident** below).

## Resident Referral Process

OHA is committed to working with general contractors and subcontractors to help them reach their Section 3 goals. Therefore, we have established a pre-screening and referral process to identify qualified OHA residents who satisfy the first and second hiring priorities (above). This process ensures that each candidate is in good standing with the housing authority and has a background that qualifies him/her to perform the essential functions of the job.

To ensure the best possible match, it is important that contractors communicate their hiring needs to OHA well in advance of the project start date. We request at least 2 business days' notice before the employee's start date, but earlier notice is preferred. We will work with you to identify a pool of candidates for each position. If we cannot provide you with a candidate, we will grant you a waiver to document your efforts to meet the Section 3 goals.

**Union Contractors:** OHA's Family and Community Partnerships department (FCP) has established a list of current OHA residents in construction trade unions that is sent to contractors on a regular basis. If there is no candidate that meets your hiring needs, you are encouraged to consider sponsoring an OHA resident who is not a member of a trade union to meet your Section 3 hiring goals.

Please contact OHA at [S3hire@oakha.org](mailto:S3hire@oakha.org) or 510-587-5160 for a list of qualified residents, to request a candidate, or verify the Section 3 eligibility of any prospective hire. For more information about providing economic opportunities to OHA resident's contact:

Employment Development Coordinator  
Family & Community Partnerships Department  
Phone: 510.587.5160  
Fax: 510.587.5141  
Email: [S3hire@oakha.org](mailto:S3hire@oakha.org)

## New Hire Section 3 Information Form

General contractors and subcontractors will be provided this form upon award. Every **new hire** should be requested to complete the form. The form provides the means to determine Section 3 eligibility of the employee. The forms should be submitted to OHA as soon as possible after hiring for verification of Section 3 status.

## Monthly Reports

OHA requires monthly reports listing all new hires and Section 3 hires from all contractors and subcontractors on Section 3 covered projects. A sample report will be provided. Reports shall be due on the fifth day of each month for the preceding month. These reports shall be submitted to:

Rufus Davis, Labor and Section 3 Compliance Officer  
Office of Program Administration  
Phone: 510.587.7131  
Fax: 510.587.2124  
Email: [rdavis@oakha.org](mailto:rdavis@oakha.org)

## Record Maintenance and Documentation

All projects and activities that are subject to Section 3 requirements shall maintain comprehensive documentation of their Section 3 outreach efforts and implementation activities. Section 3 documentation files should be clearly maintained and be available for review by Oakland Housing Authority and/or HUD officials.

## Compliance Reviews

OHA staff will conduct regular compliance reviews, which consist of comprehensive analysis and evaluation of the contractor's compliance with Section 3. Where noncompliance is found, OHA will notify the contractor of the deficiency and make recommendations for corrective actions.

## Useful Definitions

### **Business Concern**

A business entity formed in accordance with state law, and which is licensed under state, county or municipal law to engage in the type of business activity for which it was formed.

### **“Greatest Extent Feasible”**

Recipients of Section 3 financial assistance must make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting opportunities by developing strategies that will specifically target Section 3 residents and businesses for these new economic opportunities.

### **Household Income Levels**

Low and very-low income limits are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the median income for each locality by household size or number of people residing in one house. HUD income limits can be obtained from [www.huduser.org/portal/datasets/il.html](http://www.huduser.org/portal/datasets/il.html).

### **New Hire**

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created as a direct result of the expenditure of federal funds on Section 3 covered projects. Any employee that is not on the payroll of a contractor or developer on the day [i.e., that a purchase order is issued or the day a contract is signed or agreed upon] that the Section 3 covered assistance was provided, is considered a new hire.

### **Section 3 Business Concern**

A business concern that meets one or more of the following requirements:

- 51% or more owned by Section 3 residents
- 30% or more of permanent, full-time workforce consists of Section 3 residents
- Provides evidence to subcontract at least 25% of the dollar awarded to qualified Section 3 businesses

### **Section 3 Resident**

- (1) An Oakland Housing Authority public housing resident or Section 8 voucher holder; or
- (2) An individual who resides in the service area (Oakland) in which the Section 3 covered assistance is expended, and whose income status is as follows:

<b>Number of People in Household</b>	<b>Annual Household Income Limits</b> (Source: 24 CFR 570.3)
1	\$69,000 or less
2	\$78,850 or less
3	\$88,700 or less
4	\$98,550 or less
5	\$106,450 or less
6	\$114,350 or less
7	\$122,250 or less
8	\$130,100 or less

(Income limits eff. 2019)

Questions regarding the Oakland Housing Authority  
Section 3 Program should be addressed to:

Rufus Davis, Labor and Section 3 Compliance Officer  
Oakland Housing Authority  
1801 Harrison Street  
Oakland, CA 94612  
Phone: 510.587.2176  
Fax: 510.587.2124  
Email: [rdavis@oakha.org](mailto:rdavis@oakha.org)



## Section 3 Business Certification and Action Plan

Section 3 Business Certification – 1 page

Check this box if you are **not** claiming Section 3 business status. Complete Section 1 and the signature block at the bottom of this page and proceed to the **Section 3 Action Plan**.

### **SECTION 1**

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Type of Business (Check One): Corporation Partnership Sole Proprietorship Other

Project (Bid/RFP #) \_\_\_\_\_ Business Activity \_\_\_\_\_

### **SECTION 2**

**Current Section 3 Status:** The undersigned bidder/proposer hereby certifies that it is a Section 3 business concern and attaches relevant documentation, **as applicable**, to support such claim.

**Select only one option.**

1. A business claiming status as a Section 3 resident-owned business concern (ROB):

**Initial here to select this option** \_\_\_\_\_

- |   |  |
|---|--|
| <input type="checkbox"/> OHA resident lease   | <input type="checkbox"/> List of owners/stockholders and % of each |
| <input type="checkbox"/> Copy of receipt of public assistance                               | <input type="checkbox"/> Latest board minutes appointing officers  |
| <input type="checkbox"/> Other evidence of income status                                    | <input type="checkbox"/> Articles of incorporation                 |
| <input type="checkbox"/> Fictitious or Assumed Business Name Certificate                    | <input type="checkbox"/> Partnership agreement                     |
| <input type="checkbox"/> Organization chart with names and titles and brief job description |  |

2. A business claiming Section 3 status because at least 30% of its permanent full-time employees are currently Section 3 residents or, within 3 years of the date of first employment with the business concern, were Section 3 residents. If a business claims this option, the 30% employment requirement must be maintained for the entire project. **Initial here to select this option** \_\_\_\_\_

- |  |   |
|--|---|
| <input type="checkbox"/> List of all current full time employees                           | <input type="checkbox"/> List of all employees claiming Section 3 status                                |
| <input type="checkbox"/> OHA residential lease (less than 3 years from date of employment) | <input type="checkbox"/> Other evidence of Section 3 status (less than 3 years from date of employment) |

3. A business claiming Section 3 status by subcontracting 25% or more of the dollar award to qualified Section 3 businesses (as set forth in Options 1 and 2). **Initial here to select this option** \_\_\_\_\_

- Provide a list of intended Section 3 business subcontractors with subcontract amount.
- Include this Section 3 Certification form and all supporting documentation for each planned Section 3 business subcontractor.

**If you are or become certified as a Section 3 business, do you grant OHA permission to share your business contact information with firms seeking to contract with Section 3 businesses?**  Yes  No

**I attest that the above information is true and correct.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



### Section 3 Action Plan (2 pages)

All firms and individuals bidding on any Section 3 covered contract with the Oakland Housing Authority (OHA) **MUST COMPLETE AND SUBMIT THIS ACTION PLAN WITH THE BID, OFFER, OR PROPOSAL.** Any solicitation response that does not include this document (completed and signed) will be considered non-responsive and not eligible for award.

**PRELIMINARY STATEMENT OF CURRENT WORKFORCE AND HIRING NEEDS**

*THIS PLAN OUTLINES YOUR COMMITMENT TO OHA'S SECTION 3 HIRING GOALS*

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PROJECT (BID/RFP#): \_\_\_\_\_ GENERAL  SUBCONTRACTOR

JOB CATEGORY: EXAMPLES ADMINISTRATIVE ASST., OFFICE MANAGER, CLERK, PROJECT MANAGER, EQUIPMENT MECHANIC, JANITORIAL, HOUSING MANAGEMENT, LABORER, LANDSCAPER, GLAZIER-JOURNEYMAN, GLAZIER-APPRENTICE, PLUMBER-JOURNEYMAN, PLUMBER-APPRENTICE	(A)  # of CURRENT Employees (Core Staff)	(B)  PROJECTED # of New Hires FOR THIS PROJECT	(C)  PROJECTED # of Section 3 Hires	(D)  PROJECTED Section 3 Hires as a Percentage of NEW HIRES
				%
				%
				%
				%
				%
				%
				%
				%
OTHER, PLEASE LIST.				%

\_\_\_ (Check here and attach another sheet if applicable)

Check this box if contractor does not anticipate triggering the regulation by the need for new hiring or subcontracting opportunities. Complete the signature block at the bottom of this page.

**I attest that the above information is true and correct. The company certifies that the above table represents the appropriate number of employee positions and also represents the number of Section 3 employees that the company proposes to hire.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Section 3 Action Plan (continued)

### EFFORTS TO ACHIEVE SECTION 3 COMPLIANCE

Indicate the efforts your organization will take to direct employment and other economic opportunities, to the greatest extent feasible, to low-income residents. Think about how you can leverage your resources and expertise to foster training and employment opportunities for Section 3 residents. **Examples** include, but are not limited to, the following. Check all that apply.

- Refer to any list of pre-screened job-ready applicants provided by OHA's Department of Family and Community Partnerships (FCP) (*REQUEST A LIST from FCP at [S3hire@oakha.org](mailto:S3hire@oakha.org) or 510-587-5160*).
- Utilize and manage union privileges such as name-call, transfer, rehire, and sponsorship.
- Financially sponsor OHA resident(s) in trainings, certifications, professional mentorships, etc.
- Distribute flyers door-to-door to OHA owned and managed properties.
- Run multiple advertisements in local media such as newspapers and radio stations, and/or Internet-based job-posting websites announcing the hiring and contracting opportunities.
- Contract with certified Section 3 businesses, in construction and non-construction trades (*REQUEST A LIST from Rufus Davis at OHA, [rdavis@oakha.org](mailto:rdavis@oakha.org) or 510-587-2176*).
- Post signs at the entrance to the job site stating that it is a Section 3 covered project.
- Sponsor (schedule, advertise, finance, or provide in-kind services) a job informational meeting to be conducted by the housing authority or a contractor representative.
- Undertake job counseling, education and related programs in association with local educational institutions.
- Other: \_\_\_\_\_

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**I attest that the above information is true and correct.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

### **SECTION 3 CLAUSE (24 CFR 135.38)**

***This contract is subject to the following conditions under Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3).***

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor or organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprise. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

# ATTACHMENT J

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## Addendum Acknowledgement Form



**Oakland Housing Authority**

**RFQ #19-013**

Seismic Retrofit & Soft Story Evaluation

**ACKNOWLEDGEMENT**

**Addendum #1**

**Date Issued & Released: October 8, 2019**

**Bidder hereby acknowledges this addendum:**

**Name of Firm:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Acknowledgement of this Addendum must be included with your bid.

# ATTACHMENT K

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## OHA Insurance Requirements

# ATTACHMENT K

## Oakland Housing Authority Oakland Affordable Housing Preservation Initiative

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### **INSURANCE REQUIREMENTS**

Consultant/Contractor/Organization shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant/Contractor/Organizer, its agents, representatives, or employees.

#### ***Minimum Scope of Insurance***

Coverage shall be as least as broad as:

1. Insurance Services Office **Commercial General Liability coverage** (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering **Automobile Liability**, Code 1 (any auto).
3. **Workers' Compensation insurance** as required by the State of California and Employer's Liability Insurance.
4. **Errors and Omissions Liability** insurance appropriate to the consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.
5. **Fidelity Bond** appropriate to the on/off site personnel - coverage is to be endorsed to include indemnification from misconduct and dishonesty of contractor's/consultant's personnel.
6. **Cyber Security Insurance coverage** is to be endorsed to include indemnification from breach of contract and unauthorized client data access.
7. **Professional Liability Coverage** is to be endorsed to include indemnification from misleading or fraudulent acts.
8. **Builders Risk Insurance** as required by the State of California
9. **Crane Physical Damage Insurance** as required by the State of California (Code Section 1763.1)
10. **Pollution Insurance** – CalEPA standards of air emissions.

#### ***Minimum Limits of Insurance***

Consultant/Contractor/Organizers shall maintain limits no less than:

1. General Liability: **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either (Including operations, products and completed operations, as applicable.)

**Oakland Housing Authority**  
**Oakland Affordable Housing Preservation Initiative**

the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- 2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
- 3. Workers' Compensation and Employer's Liability: **\$1,000,000** per accident for bodily injury and property damage.
- 4. Builders Risk Insurance: **\$1,000,000** per occurrence for direct physical property damage.
- 5. Cyber Insurance: **\$1,000,000** per occurrence to cover both 1<sup>st</sup> and 3<sup>rd</sup> party claims through the entire contract; \$200 per record per occurrence in the amount not to exceed the cost of the full contract. Provide identity theft product to effected entities for one (1) year.
- 6. Builders Risk Insurance: **\$1,000,000** per occurrence for direct physical property damage.
- 7. Crane Physical Damage Insurance: **\$1,000,000** per occurrence for direct physical property damage.
- 8. Pollution **\$1,000,000** per occurrence for direct air emissions violations.

***Deductible and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, officials, employees and volunteers; or the Consultant/Contractor/Organizers shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.

***Other Insurance Provisions***

The commercial general liability is to contain, or be endorsed to contain, the following provisions.

**Oakland Housing Authority**  
**Oakland Affordable Housing Preservation Initiative**

1. The Authority, its commissioners, members, officers, agents, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant/Contractor/Organizer; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor/Organizer.
2. For any claims related to this project, the Consultant's/Contractor's/Organizer's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Authority, its commissioners, members, officers, agents, employees or volunteers shall be excess of the Consultant's/Contractor's/Organizer's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after (30) days' prior written notice by certified mail, returned receipt requested, has been given to the Authority.
4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Authority, its commissioners, members, officers, agents, employees and volunteers.
5. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VI, unless otherwise acceptable to the Authority.

***Verification of Coverage***

Consultant/Contractor shall furnish the Authority with certificates of insurance and with original endorsements evidencing coverage required by this clause. All certificates and endorsements are to be received and approved by the Authority before work commences. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

*\*Oakland Housing Authority shall be named as an additionally insured on all policies, certificate of insurance and endorsements.*

## ATTACHMENT L

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### OHA Sample Services Contract

OAKLAND HOUSING AUTHORITY  
SERVICES CONTRACT

This SERVICES CONTRACT ("Contract") is entered into as of **[effective date]**, by and between the OAKLAND HOUSING AUTHORITY, a public body, corporate and politic (the "Authority"), and **[name of contractor]**, **[legal status (e.g., "a California corporation," or "a sole proprietor")]** ("Contractor").

RECITALS

WHEREAS,

NOW, THEREFORE, the Authority and the Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide the services described on Exhibit A, "Scope of Services."

2. TIME OF PERFORMANCE

The term of this Contract shall begin on **[starting date]** and end on **[Contract ending date]**.

Contractor's Schedule of Performance is set forth on Exhibit.

Contractor will begin work within \_\_\_\_\_ (\_\_) days after receipt of an Authority Notice to Proceed.

Time for completion of this Contract will be \_\_\_\_\_ (\_\_) days after receipt of an Authority Notice to Proceed to the Contractor.

**[For Option Terms]**

a. **Initial Term.** The Initial term of this Contract will begin on \_\_\_\_\_, and end on \_\_\_\_\_, unless earlier terminated as provided herein.

b. **First Option Term.** The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of \_\_\_\_\_ through \_\_\_\_\_ ("First Option Term") by giving written notice to the Contractor prior to the expiration of the Initial Term, unless earlier terminated as provided herein.

c. **Second Option Term.** The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of \_\_\_\_\_ through \_\_\_\_\_ ("Second Option Term") by giving written notice to the Contractor prior to the expiration of the First Option Term, unless earlier terminated as provided herein.

d. **Third Option Term.** The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of \_\_\_ through \_\_\_ ("Third Option Term") by giving written notice to the Contractor prior to the expiration of the Second Option Term, unless earlier terminated as provided herein.

3. COMPENSATION AND METHOD OF PAYMENT

The maximum amount payable under this Contract is \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

A. Compensation.

B. Taxes. No payroll or employment taxes of any kind will be withheld or paid by Authority on behalf of Contractor. Authority will not treat Contractor as an employee with respect to the contract services for any purpose, including federal and state tax purposes. Contractor understands and agrees that it is Contractor's responsibility to pay all taxes required by law, including self-employment social security tax. Authority will issue an IRS 1099 Form, or other appropriate tax reporting document, to Contractor for the Contract services.

C. Benefits. Contractor will not be eligible for, and will not participate in, any health, pension, or other benefit of Authority which exists solely for the benefit of Authority employees during the Contract Term.

D. Billings. Billings are to be directed to:

Oakland Housing Authority  
Finance Department – Accounts Payable  
1619 Harrison Street  
Oakland, CA 94612

4. NO PERSONAL LIABILITY

No member, official or employee of the Authority shall be liable personally to Contractor or any successor in interest in the event of any default or breach by the Authority or for any amount which may become due to Contractor or any successor or on any obligation under the terms of this Contract.

5. ASSIGNMENT OF CONTRACT

Contractor shall not assign this Contract, or any part thereof, without the prior express written consent of the Authority.

6. STANDARD OF PERFORMANCE

The work provided hereunder shall be performed and completed in an accurate and professional manner. All services shall be performed in the manner and according

to the standards observed by the competent practitioner of the profession in which Contractor and any subcontractors are engaged.

7. HUD REQUIREMENTS

Contractor agrees to comply with all relevant HUD requirements, including those set forth in the HUD Table 5.1 Mandatory Contract Clauses for Small Purchases Other than Construction, attached hereto as Exhibit C and incorporated as if fully set forth herein. In the event of a conflict between the provisions in the body of this Contract and Exhibit C, the provisions set forth in Exhibit C shall prevail.

8. INDEMNIFICATION

Contractor shall defend, hold harmless and indemnify the Authority, and its respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of this Contract and any of Contractor's operations or activities related thereto, excluding the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

9. INDEPENDENT CONTRACTOR

Contractor hereby declares that it is engaged in an independent business and agrees to perform its services as an independent contractor and not as the agent or employee of the Authority. Contractor has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Contractor agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state and local payroll tax and withholding requirements, workers' compensation requirements and all regulations governing such matters. Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

10. INSURANCE

A. Contractor must procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors.

B. Minimum Scope of Insurance. Coverage must be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- (2) Insurance Services Office form number CA 00 01 covering Automobile Liability, code 1 (any auto).
- (3) Workers' Compensation insurance as required by the State of California and Employers Liability Insurance.
- (4) Errors and Omissions Liability Insurance appropriate to the Contractor's profession covering all negligent acts, error and omissions. Architects' and Engineers' insurance is to be endorsed to include contractual liability.
- (5) Fidelity Bond appropriate to the on/off site personnel – coverage is to be endorsed to include indemnification for misconduct and dishonesty of contractors/ consultants personnel.
- (6) Cyber Security Insurance coverage is to be endorsed to include indemnification from breach of contract and unauthorized client data access.

C. Minimum Limits of Insurance. Contractor must maintain limits no less than:

- (1) General Liability: One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.
- (2) Automobile Liability: One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage.
- (3) Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of One Million Dollars (\$1,000,000) for bodily injury by accident and One Million Dollars (\$1,000,000) per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees.)

- (4) Professional Liability Insurance: One Million Dollars (\$1,000,000) per occurrence.
- (5) Cyber Insurance: One Million Dollars (\$1,000,000) per occurrence to cover both 1<sup>st</sup> and 3<sup>rd</sup> party claims through the entire contract; \$200 per record per occurrence in the amount not to exceed the cost of the full contract.
- (6) Builders Risk Insurance: One Million (\$1,000,000) per occurrence for direct physical property damage.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, either: 1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, and its respective commissioners, members, officers, agents and employees; or 2) Contractor shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The Authority and its respective commissioners, members, officers, agents and employees are to be covered as insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and liability arising out of work or operations performed by or on behalf of the Contractor.
- (2) For any claims related to this Contract, the Contractor's insurance coverage must be primary insurance as respects to the Authority, and its respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by the Authority, and its respective commissioners, members, officers, agents or employees shall be excess of Contractor's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Authority and its respective commissioners, members, officers, agents or employees.

- (4) Each insurance policy required by this clause must be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Authority.

F. Workers' Compensation and Employers Liability Coverage. Insurer shall agree to waive all rights of subrogation against the Authority and its respective commissioners, members, officers, agents and employees for losses arising from work performed by Contractor or for the Authority.

G. Claims Made Coverage. If General Liability and/or Errors and Omissions coverages are written on a claims-made form:

- i. The "Retro Date" must be shown, and must be before the date of the Contract or the beginning of Contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Contract work.

A copy of the claims reporting requirements must be submitted to OHA for review.

H. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VI.

I. Verification of Coverage. Contractor must furnish the Authority with certificates of insurance and with original endorsements evidencing coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsement may be on forms provided by the Authority. All certificates and endorsements are to be received and approved by the Authority before work commences. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

J. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein.

11. RECORDS, REPORTS AND AUDITS

A. Records

- (1) Records shall be established and maintained in accordance with Authority requirements, and U.S. Department of Housing and Urban Development ("HUD") requirements with respect to all matters covered by this Contract. Except as otherwise authorized by the Authority, such records shall be maintained for a period of four (4) years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be retained for four (4) years or until such audit findings have been resolved, whichever is later.
- (2) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

B. Reports and Information. At such times and in such forms as the Authority may require, there shall be furnished to the Authority or its designated representative such statements, records, reports, data and information as the Authority may request pertaining to matters covered by this Contract.

12. CONFLICTS

No employee, agent, contractor, officer or official of the Authority who exercises any functions or responsibilities with respect to this Contract or who is in a position to participate in a decision-making process or gain inside information with regard to it, shall obtain a personal or financial interest in or benefit from any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom they have family or business ties, during his or her tenure or for one (1) year thereafter. The term "contractor" also includes the employees, officers (including board members), agents and subcontractors of a Contractor under this Contract. In order to carry out the purposes of this section, Contractor shall incorporate, or cause to be incorporated, in all contracts and subcontracts relating to activities pursuant to this Contract, a provision similar to that of this section.

13. CONFIDENTIALITY/PROPERTY OF AUTHORITY

All of the reports, information, data or other materials prepared or assembled by Contractor under this Contract, including Contractor's opinions and conclusions based upon such items, are confidential. Contractor agrees that such reports, information,

opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without the prior written approval of the Authority. Unless otherwise stated in the Scope of Services, all such reports, information, data or other materials and work product shall become the property of the Authority.

14. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE

It is understood and agreed that Contractor shall comply with California Government Code Section 7550. Government Code Section 7550 provides in part that when the total cost for work performed for a local Authority by nonemployees of such Authority exceed Five Thousand Dollars (\$5,000), any document or written report prepared in whole or in part by nonemployees for such Authority shall contain, in a separate section, the numbers and dollar amount of all contracts and subcontracts relating to the preparation of such document or written report.

15. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND MINORITY AND WOMAN-OWNED BUSINESS ENTERPRISES

A. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of this Contract. Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations to clients or the general public.

B. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

C. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Contractor shall provide all services to the public under this Contract in facilities that are accessible to persons with disabilities as required by state and federal law.



accrue to, any unapproved successor or assign of Contractor where Authority approval of a successor or assign is required by this Contract.

D. Modification, Waiver and Amendment. Any modification, waiver or amendment of any of the provisions of this Contract must be in writing and signed by both the Authority and Contractor.

E. Entire Contract. This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Contractor and the Authority affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements, agreements and understandings between Contractor and the Authority with respect to the subject matter hereof.

F. Severability. If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.

G. Governing Law. This Contract shall be governed by the laws of the State of California. It is the responsibility of Contractor to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements.

H. Headings. Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.

I. Attorneys' Fees. In any action or proceeding arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

J. Authority. The undersigned represents and warrants that he or she has full power and authority to enter into this Contract and to bind the Contractor in accordance with its terms.

K. Designated Representative. The initial designated representative for the Authority for this Contract is \_\_\_\_\_. The initial Contractor-designated representative for this Contract is \_\_\_\_\_.

**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF the Authority and Contractor have executed this Contract as of the date first above written.

**[CONTRACTOR]**

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

**[SIGNATORY]**

**[TITLE]**

Federal Tax Identification No. \_\_\_\_\_

OAKLAND HOUSING AUTHORITY, a public body  
Corporate and politic

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

Eric Johnson  
Executive Director

SAMPLE

EXHIBIT A  
Scope of Services

SAMPLE

EXHIBIT B  
Payment Schedule

SAMPLE

## ATTACHMENT M

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HUD 51915, Model Form of Agreement Between Owner and  
Design Professional

**U.S. Department of Housing  
and Urban Development**  
Office of Public and Indian Housing

OMB Approval No. 2577-0157 (exp. 3/31/2020)

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**Model Form of Agreement Between  
Owner and Design Professional**

# Model Form of Agreement Between Owner and Design Professional

U. S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0157  
(exp. 3/31/2020)

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

These contracts between a HUD grantee (housing agency (HA)) and an architect/engineer (A/E) for design and construction services do not require either party to submit any materials to HUD. The forms provide a contractual agreement for the services to be provided by the A/E and establishes responsibilities of both parties pursuant to the contract. The regulatory authority is 24 CFR 85.36. These contractual agreements are required by Federal law or regulation pursuant to 24 CFR Part 85.36. Signing of the contracts is required to obtain or retain benefits. The contracts do not lend themselves to confidentiality.

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## Table of Contents

Page

### Introduction

#### Article A: Services

##### A. 1.0 **Design Professional's Basic Services**

##### A. 1.1 Areas of Professional's Basic Services

##### A. 1.2 Phases and Descriptions of Basic Services

##### A. 1.2.1 Schematic Design/Preliminary Study Phase

##### A. 1.2.2 Design Development Phase

##### A. 1.2.3 Bidding, Construction and Contract Document Phase

##### A. 1.2.4 Bidding and Award Phase

##### A. 1.2.5 Construction Phase

##### A. 1.2.6 Post Completion/Warranty Phase

##### A. 1.3 Time of Performance

##### A. 2.0 **Design Professional's Additional Services**

##### A. 2.1 Description of Additional Services

##### A. 2.2 Written Addendum or Contract Amendment

### Article B: Compensation and Payment

#### B. 1.0 **Basic Services**

##### B. 1.1 Fixed Fee for Basic Services

##### B. 1.2 Payment Schedule

#### B. 2.0 **Reimbursables**

##### B. 2.1 Reimbursable Expenses

##### B. 2.1.1 Travel Costs

##### B. 2.1.2 Long-Distance Telephone Costs

##### B. 2.1.3 Delivery Costs

##### B. 2.1.4 Reproduction Costs

##### B. 2.1.5 Additional Reimbursables

#### B. 3.0 **Additional Services**

##### B. 3.1 Payment for Additional Services

#### B. 4.0 **Invoicing and Payments**

##### B. 4.1 Invoices

##### B. 4.2 Time of Payment

### Article C: Responsibilities

#### C. 1.0 **Design Professional's Responsibilities**

##### C. 1.1 Basic Services

##### C. 1.2 Additional Services

##### C. 1.3 General Responsibilities

##### C. 1.4 Designing within Funding Limitations

##### C. 1.5 Compliance with Laws, Codes, Ordinances and Regulations

##### C. 1.6 Seal

##### C. 1.7 Attendance at Conferences

#### C. 2.0 **Owner's Responsibilities**

##### C. 2.1 Information

##### C. 2.2 Notice of Defects

##### C. 2.3 Contract Officer



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## Introduction to Agreement

### Agreement

made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year (yyyy) of \_\_\_\_\_

Between the **Owner** (Name & Address)

and the **Design Professional** (Name, Address and Discipline)

For the following **Project** (Include detailed description of Project, Location, Address, Scope and Program Designation)

The Owner and Design Professional agree as set forth below.

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## Article A: Services

### A 1.0 Design Professional's Basic Services

A. 1.1 Areas of Professional's Basic Services. Unless revised in a written addendum or amendment to this Agreement, in planning, designing and administering construction or rehabilitation of the Project, the Design Professional shall provide the Owner with professional services in the following areas:

- o Architecture
- o Site Planning
- o Structural Engineering
- o Mechanical Engineering
- o Electrical Engineering
- o Civil Engineering
- o Landscape Architecture
- o Cost Estimating
- o Construction Contract Administration

### A 1.2 Phases and Descriptions of Basic Services.

A. 1.2.1 Schematic Design/Preliminary Study Phase. After receipt of a Notice to Proceed from the Owner, the Design Professional shall prepare and deliver Schematic Design/Preliminary Study Documents. These documents shall consist of a presentation of the complete concept of the Project, including all major elements of the building(s), and site design(s), planned to promote economy both in construction and in administration and to comply with current program and cost limitations. The Design Professional shall revise these documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. Additionally, the Design Professional shall make an independent assessment of the accuracy of the information provided by the Owner concerning existing conditions. Documents in this phase shall include:

- o Site plan(s)
- o Schedule of building types, unit distribution and bedroom count
- c Scale plan of all buildings, and typical dwelling units
- c Wall sections and elevations
- c Outline specifications
- c Preliminary construction cost estimates
- c Project specific analysis of codes, ordinances and regulations
- c Three dimensional line drawings

A. 1.2.2 Design Development Phase. After receipt of written approval of Schematic Design/Preliminary Study Documents, the Design Professional shall prepare and submit to the Owner Design Development Documents. The Design Professional shall revise these documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. These documents shall include the following:

- o Drawings sufficient to fix and illustrate project scope and character in all essential design elements
- o Outline specifications
- o Cost estimates and analysis
- o Recommendations for phasing of construction
  - c Site plan(s)
  - c Landscape plan
  - c Floor plans
  - c Elevations, building and wall sections
  - c Updated three dimensional line drawings
  - c Engineering drawings

A. 1.2.3 Bidding, Construction and Contract Document Phase. After receipt of the Owner's written approval of Design Development Documents, the Design Professional shall prepare Construction Documents. After consultation with the Owner and Owner's attorney, if requested by the owner, the Design Professional shall also prepare and assemble all bidding and contract documents. The Design Professional shall revise these Bidding, Construction and Contract documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. They shall, include in a detailed, manner all work to be performed; all material; workmanship; finishes and equipment required for the architectural, structural, mechanical, electrical, and site work; survey maps furnished by Owner; and direct reproduction of any logs and subsurface soil investigations. These documents shall include:

- o Solicitation for Bids
- o Form of Contract
- o Special Conditions
- o General Conditions
- o Technical Specifications
- o Plans and drawings
- o Updated cost estimates

A. 1.2.4 Bidding and Award Phase. After written approval of Bidding, Construction and Contract Documents from the Owner, the Design Professional shall assist in administering the bidding and award of the Construction Contract. This shall include:

- o Responding to inquires
- o Drafting and issuing addendum approved by Owner
- o Attending prebid conference(s)
- o Attending public bid openings
- o Reviewing and tabulating bids
- o Recommending list of eligible bids
- o Recommending award
- o Altering drawings and specifications as often as required to award within the Estimated Construction Contract Cost

A. 1.2.5 Construction Phase. After execution of the Construction Contract, the Design Professional shall in a prompt and timely manner administer the Construction Contract and all work required by the Bidding, Construction and Contract Documents. The Design Professional shall endeavor to protect the Owner against defects and deficiencies in the execution and performance of the work. The Design Professional shall:

- o Administer the Construction Contract.
- o Conduct pre-construction conference and attend dispute resolution conferences and other meetings when requested by the Owner.
- o Review and approve contractor's shop drawings and other submittals for conformance to the requirements of the contract documents.
- o At the Owner's written request, and as Additional Service, procure testing from qualified parties.
- o Monitor the quality and progress of the work and furnish a written field report  weekly,  semi monthly,  monthly, or  \_\_\_\_\_ This service shall be limited to a period amounting to 110% of the construction period as originally established under the construction contract unless construction has been delayed due to the Design professional's failure to properly perform its duties and responsibilities. The Owner may direct additional monitoring but only as Additional Services.
- o Require any sub-consultant to provide the services listed in this section where and as applicable and to visit the Project during the time that construction is occurring on the portion of the work related to its discipline and report in writing to the Design Professional.
- o Review, approve and submit to Owner the Contractor Requests for Payment.
- o Conduct all job meetings and record action in a set of minutes which are to be provided to the Owner.
- o Make modifications to Construction Contract Documents to correct errors, clarify intent or to accommodate change orders.
- o Make recommendations to Owner for solutions to special problems or changes necessitated by conditions encountered in the course of construction.
- o Promptly notify Owner in writing of any defects or deficiencies in the work or of any matter of dispute with the Contractor.
- o Negotiate, prepare cost or price analysis for and counter-sign change orders.
- o Prepare written punch list, certificates of completion and other necessary construction close out documents.
- o Prepare a set of reproducible record prints of Drawings showing significant changes in the work made during construction, including the locations of underground utilities and appurtenances referenced to permanent surface improvements, based on marked-up prints, drawings and other data furnished by the contractor to the Design Professional.

A. 1.2.6 Post Completion/Warranty Phase. After execution of the Certificate of Completion by the Owner, the Design Professional shall:

- o Consult with and make recommendations to Owner during warranties regarding construction, and equipment warranties.
- o Perform an inspection of construction work, material, systems and equipment no earlier than nine months and no later than ten months after completion of the construction contract and make a written report to the Owner. At the Owner's request, and by Amendment to the Additional Services section of this contract, conduct additional warranty inspections as Additional Services.
- o Advise and assist Owner in construction matters for a period up to eighteen months after completion of the project, but such assistance is not to exceed forty hours of service and one nonwarranty trip away from the place of business of the Design Professional.

A. 1.3 Time of Performance. The Design Professional's schedule for preparing, delivering and obtaining Owner's approval for Basic Services shall be as follows:

- o Schematic Design/Preliminary Study Documents within \_\_\_\_\_ calendar days for the date of the receipt of a Notice to Proceed.
- o Design Development Documents within \_\_\_\_\_ calendar days from the date of receipt of written approval by the Owner of Schematic Design/Preliminary Study documents.
- o Bidding, Construction and Contract Documents within \_\_\_\_\_ calendar days from the date of receipt of written approval by the Owner of Design Development Documents.

## A. 2.0 Design Professional's Additional Services

A. 2.1 Description of Additional Services. Additional Services are all those services provided by the Design Professional on the Project for the Owner that are not defined as Basic Services in Article A, Section 1.2 or otherwise required to be performed by the Design Professional under this Agreement. They include major revisions in the scope of work of previously approved drawings, specifications and other documents due to causes beyond the control of the Design Professional and not due to any errors, omissions, or failures on the part of the Design Professional to carry out obligations otherwise set out in this Agreement.

A. 2.2 Written Addendum or Contract Amendment. All additional services not already expressly required by this agreement shall be agreed to through either a written addendum or amendment to this Agreement.

## Article B: Compensation and Payment B.

### 1.0 Basic Services

B. 1.1 Fixed Fee for Basic Services. The Owner will pay the Design Professional for Basic Services performed as defined by A.1.2, a Fixed Fee (stipulated sum) of \$ \_\_\_\_\_ plus Reimbursable Expenses identified in Article B.2.0. Such

payment shall be compensation for all Basic Services required, performed, or accepted under this Contract.

B. 1.2 Payment Schedule. Progress payments for Basic Services for each phase of work shall be made in proportion to services performed as follows:

Phase	Amount
Schematic Design/Preliminary Study Phase	\$ _____
Design Development Phase	\$ _____
Bidding, Construction & Contract Document Phase	\$ _____
Bidding & Award Phase	\$ _____
Construction Phase	\$ _____
Post Completion/ Warranty Phase	\$ _____
Total Basic Services	\$ _____

### B. 2.0 Reimbursables

B. 2.1 Reimbursable Expenses. The Owner will pay the Design Professional for the Reimbursable Expenses listed below up to a Maximum Amount of \$ \_\_\_\_\_ Reimbursable Expenses are in addition to the Fixed Fee for Basic Services and are for certain actual expenses incurred by the Design Professional in connection with the Project as enumerated below.

B. 2.1.1 Travel Costs. The reasonable expense of travel costs incurred by the Design Professional when requested by Owner to travel to a location that lies outside of a 45 mile radius of either the Project site, Design Professional's office (s), and Owner's office.

B. 2.1.2 Long Distance Telephone Costs. Long distance telephone calls and long distance telefax costs.

B. 2.1.3 Delivery Costs. Courier services and overnight delivery costs.

B. 2.1.4 Reproduction Costs. Reproduction and postage costs of required drawings, specifications, Bidding and Contract documents, excluding the cost of reproductions for the Design Professional or Subcontractor's own use.

B. 2.1.5 Additional Reimbursables. The Design Professional and Owner may agree in an addendum or amendment to this Agreement to include certain other expenses not enumerated above as Reimbursable Expenses. These Reimbursables shall not be limited by the Maximum Amount agreed to above. A separate Maximum Amount for these Reimbursables shall be established.

### B. 3.0 Additional Services

B. 3.1 Payment for Additional Services. The Owner will pay the Design Professional only for Additional Services agreed to in an addendum or amendment to this Agreement executed by the Owner and the Design Professional pursuant to A.2. Payment for all such Additional Services shall be in an amount and upon the terms set out in such amendment or addendum and agreed upon by the parties. Each such amendment or addendum shall provide for a fixed price or, where payment for such Additional Services is to be on an hourly basis or other unit pricing method, for a

maximum amount; each such amendment or addendum shall also provide for a method of payment, including, at a minimum, whether payment will be made in partial payments or in lump sum and whether it will be based upon percentage of completion or services billed for.

### B. 4.0 Invoicing and Payments

B. 4.1 Invoices. All payments shall require a written invoice from the Design Professional. Invoices shall be made no more frequently than on a monthly basis. Payments for Basic Services shall be in proportion to services completed within each phase of work. When requesting such payment, the invoice shall identify the phase and the portion completed. All invoices shall state the Agreement, name and address to which payment shall be made, the services completed and the dates of completion, and whether the invoice requests payment for Basic Services, Reimbursable or Additional Services. Invoices seeking payment for Reimbursable or Additional Services must provide detailed documentation.

B. 4.2 Time of Payment. Upon the Design Professional's proper submission of invoices for work performed or reimbursable expenses, the Owner shall review and, if the work is in conformance with the terms of the Agreement, make payment within thirty days of the Owner's receipt of the invoice.

## Article C: Responsibilities

### C. 1.0 Design Professional's Responsibilities

C. 1.1 Basic Services. The Design Professionals shall provide the Basic Service set out in Article A.1.0.

C. 1.2 Additional Services. When required under this Agreement or agreed to as set out in A.2.0, the Design Professional shall provide Additional Services on the Project.

C. 1.3 General Responsibilities. The Design Professional shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other services, furnished by the Design Professional under this Agreement. The Owner's review, approval, acceptance of, or payment for Design Professional services shall not be construed as a waiver of any rights under this Agreement or of any cause of action for damages caused by Design Professional's negligent performance under this Agreement. Furthermore, this Agreement does not restrict or limit any rights or remedies otherwise afforded the Owner or Design Professional by law.

C. 1.4 Designing Within Funding Limitations. The Design Professional shall perform services required under this Contract in such a manner so as to cause an award of a Construction Contract(s) that does not exceed (1) \$ \_\_\_\_\_ or (2) an amount to be provided by the Owner in writing to the Design Professional prior to the commencement of Design Professional services. This fixed limit shall be called the Maximum Construction Contract Cost. The amount may be increased by the Owner, but only with written notice to the Design Professional. If the increase results in a change to the scope of work, an amendment to this Agreement will be required. The Design Professional and the Owner may mutually agree to decrease the Maximum Construction Contract Cost, but only by signing a written amendment to this Agreement. Should bids for the Construction Contract(s) exceed the Maximum Construction Contract Cost, the Owner has the right to require the Design Profes-

sional to perform redesigns, rebids and other services necessary to cause an award of the Construction Contract within the Maximum Construction Contract Cost without additional compensation or reimbursement.

C. 1.5 Compliance with Laws, Codes, Ordinances and Regulations. The Design Professional shall perform services that conform to all applicable Federal, State and local laws, codes, ordinances and regulations except as modified by any waivers which may be obtained with the approval of the Owner. If the Project is within an Indian reservation, tribal laws, codes and regulations shall be substituted for state and local laws, codes, ordinances and regulations. However, on such a Native American Projects, the Owner may additionally designate that some or all state and local codes shall apply. In some of these circumstances, a model national building code may be selected by the Indian or Native American Owner. The Design Professional shall certify that Contract Documents will conform to all applicable laws, codes, ordinances and regulations. The Design Professional shall prepare all construction documents required for approval by all governmental agencies having jurisdiction over the project. The Design professional shall make all changes in the Bidding and Construction Documents necessary to obtain governmental approval without additional compensation or reimbursement, except in the following situations. If subsequent to the date the Owner issues a notice to proceed, revisions are made to applicable codes or non-federal regulations, the Design Professional shall be entitled to additional compensation and reimbursements for any additional cost resulting from such changes. The Design Professional, however, is obligated to notify the Owner of all significant code or regulatory changes within sixty (60) days of their change, and such notification shall be required in order for the Design Professional to be entitled to any additional compensation or reimbursement.

C. 1.6 Seal. Licensed Design Professionals shall affix their seals and signatures to drawings and specifications produced under this Agreement when required by law or when the project is located on an Indian Reservation.

C. 1.7 Attendance at Conferences. The Design Professional or designated representative shall attend project conferences and meetings involving matters related to basic services covered under this contract. Attendance at community wide meetings shall be considered an additional service.

#### C. 2.0 Owner's Responsibilities

C. 2.1 Information. The Owner shall provide information regarding requirements for the project, including a program that shall set forth the Owner's objectives and schedule. The Owner shall also establish and update the Maximum Construction Cost. This shall include the Owner's giving notice of work to be performed by the Owner or others and not included in the Construction Contract for the Project. The Design Professional, however, shall be responsible to ascertain and know federal requirements and limitations placed on the Project.

C. 2.2 Notice of Defects. If the Owner observes or otherwise becomes aware of any fault or defect in the construction of the project or nonconformance with the Construction Contract, the Owner shall give prompt written notice of those faults, defects or nonconformance to the Design Professional.

C.2.3 Contract Officer. The Owner shall designate a Contract Officer authorized to act on its behalf with respect to the design and construction of the Project. The Contract Officer shall examine documents submitted by the Design Professional and shall promptly render decisions pertaining to those documents so as to avoid unreasonably delaying the progress of the Design Professional's work.

C. 2.4 Duties to Furnish. The Owner shall provide the Design Professional the items listed below.

C. 2.4.1 Survey and Property Restrictions. The Owner shall furnish topographic, property line and utility information as and where required. The Owner may at its election require the Design Professional to furnish any of these items as an Additional Service.

C. 2.4.2 Existing Conditions. The Owner shall provide the Design Professional any available "as-built" drawings of buildings or properties, architect surveys, test reports, and any other written information that it may have in its possession and that it might reasonably assume affects the work.

C. 2.4.3 Waivers. The Owner shall provide the Design Professional information it may have obtained on any waivers of local codes, ordinances, or regulations or standards affecting the design of the Project.

C. 2.4.4 Minimum Wage Rates. The Owner shall furnish the Design Professional the schedule of minimum wage rates approved by the U.S. Secretary of Labor for inclusion in the solicitation and Contract Documents.

C. 2.4.5 Tests. When expressly agreed to in writing by both the Owner and the Design Professional, the Owner shall furnish the Design Professional all necessary structural, mechanical, chemical or other laboratory tests, inspections and reports required for the Project.

C. 2.4.6 Contract Terms. The Owner or its legal counsel may provide the Design Professional text to be incorporated into Bidding and Construction Contract Documents.

#### Article D: Contract Administration

D. 1.0 Prohibition of Assignment. The Design Professional shall not assign, subcontract, or transfer any services, obligations, or interest in this Agreement without the prior written consent of the Owner. Such consent shall not unreasonably be withheld when such assignment is for financing the Design Professional's performance.

D. 1.1 Ownership of Documents. All drawings, specifications, studies and other materials prepared under this contract shall be the property of the Owner and at the termination or completion of the Design Professional's services shall be promptly delivered to the Owner. The Design Professional shall have no claim for further employment or additional compensation as a result of exercise by the Owner of its full rights of ownership. It is understood, however, that the Design Professional does not represent such data to be suitable for re-use on any other project or for any other purpose. If the Owner re-uses the subject data without the Design Professional's written verification, such re-use will be at the sole risk of the Owner without liability to the Design Professional.

D. 1.2 Substitutions.

A. The Design Professional shall identify in writing principals and professional level employees and shall not substitute or replace principals or professional level employees without the prior approval of the Owner which shall not unreasonably be withheld.

B. The Design Professional’s personnel identified below are considered to be essential to the work effort. Prior to diverting or substituting any of the specified individuals, the Design Professional shall notify the Owner reasonably in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on the contract. No diversion or substitution of such key personnel shall be made by the Design professional without the prior written consent of the Owner.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. 1.3 Suspension. The Owner may give written notice to the Design Professional to suspend work on the project or any part thereof. The Owner shall not be obligated to consider a claim for additional compensation if the Design Professional is given written notice to resume work within 120 calendar days. If notice to resume work is not given within 120 calendar days, the Design Professional shall be entitled to an equitable adjustment in compensation.

D. 1.4 Subcontracts. The Design Professional will cause all applicable provisions of this Agreement to be inserted in all its subcontracts.

D. 1.5 Disputes. In the event of a dispute arising under this Agreement, the Design Professional shall notify the Owner promptly in writing and submit its claim in a timely manner. The Owner shall respond to the claim in writing in a timely manner. The Design Professional shall proceed with its work hereunder in compliance with the instructions of the Owner, but such compliance shall not be a waiver of the Design Professional’s rights to make such a claim. Any dispute not resolved by this procedure may be determined by a court of competent jurisdiction or by consent of the Owner and Design Professional by other dispute resolution methods.

D. 1.6 Termination. The Owner may terminate this Agreement for the Owner’s convenience or for failure of the Design Professional to fulfill contract obligations. The Owner shall terminate by delivering to the Design Professional a Notice of Termination specifying the reason therefore and the effective date of termination. Upon receipt of such notice, the Design Professional shall immediately discontinue all services affected and deliver to the Owner all information, reports, papers, and other materials accumulated or generated in performing this contract whether completed or in process. If the termination is for convenience of the Owner, the Owner shall be liable only for payment for accepted services rendered before the effective date of termination.

D. 1.7 Insurance. The Design professional shall carry Commercial or Comprehensive General Liability Insurance, Professional Liability Insurance (for a period extending two years past the date of completion of construction), and other insurance as are required by law, all in minimum amounts as set forth below. The Design Professional shall furnish the Owner certificates of insurance and they shall state that a thirty day notice of prior cancellation or change will be provided to the Owner. Additionally, the Owner shall be an additional insured on all Commercial or Comprehensive General liability policies.

Insurance	Limits or Amount
_____	_____
_____	_____
_____	_____

D. 1.8 Retention of Rights. Neither the Owner’s review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Design Professional shall be and remain liable to the Owner in accordance with the applicable law for all damages to the Owner caused by the Design professional’s negligent performance of any of the services furnished under this contract.

**Article E: Additional Requirements**

E. 1.0 Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development (HUD).

E. 1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2 and conform to the Contract pricing provisions of 24 CFR 85.36 (f).

E. 1.2 Additional Services. The Owner shall perform a cost or price analysis as required by 24 CFR 85.36 (f) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

E. 1.3 Restrictive Drawings and Specifications. In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

E. 1.4 Design Certification. Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235), the Design Professional shall provide such a certification to the Owner.

E. 1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

E. 1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfil the requirements of the construction contract.

E. 1.7 Conflicts of Interest. Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his or her immediate family,

(iii) His or her partner, or

(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of

his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

No member, officer, or employee of the Owner, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

E. 1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

E. 1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of \$10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

E. 1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, no member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit to arise from it.

E. 1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee of Congress in connection with any of the following covered Federal actions: the awarding of any federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

E. 1.12 Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. Reserved.

H. Reserved.

E. 1.13 Reserved.

E. 1.14 Clean Air and Water. (Applicable to contracts in excess of \$100,000). Because of 24 CFR 85.36(i)(12) and Federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of \$100,000.

E. 1.15 Energy Efficiency. Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

E. 1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

E. 1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex, national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe's powers of self-government.

E. 1.18 Prohibition Against Liens. The Design professional is Prohibited from placing a lien on the Owner's property. This prohibition shall be placed in all design professional subcontracts.

**Article F: Other Owner Requirements** (if any)

(Continue on additional pages as necessary)

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This Agreement is entered into as of the day and year first written above.

Owner

Design Professional

\_\_\_\_\_  
(Housing Authority)

\_\_\_\_\_  
(Firm)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
(Print Title)

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Addendum (If any)

(Additional Services and other modifications)

This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the \_\_\_\_\_ day of \_\_\_\_\_ in the year (yyyy) of \_\_\_\_\_ between the Owner \_\_\_\_\_ and Design Professional \_\_\_\_\_ on Project \_\_\_\_\_. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year (yyyy) of \_\_\_\_\_

Owner

Design Professional

\_\_\_\_\_  
(Housing Authority)

\_\_\_\_\_  
(Firm)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
(Print Title)

# ATTACHMENT N

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## OHA Economic Opportunities Policy



## **EXHIBIT B**

# OHA ECONOMIC OPPORTUNITIES POLICY

## Oakland Housing Authority Economic Opportunities Policy

**Background:**

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C, 1701U (hereinafter referred to as "Section 3") requires that economic opportunities generated by certain U.S. Department of Housing and Urban Development financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low - and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

The U.S. Department of Housing and Urban Development's regulations implementing Section 3 are found at 24 CFR Part 135. It is the intent of OHA policy to comply fully with Section 3; and by publication of this policy, the OHA provides direction for application of this policy.

This policy shall remain in effect for all covered activities so long as this policy remains consistent with federal regulations or until changed by the Authority. . In any case where it is found that any provision of this policy or of a procedure or program undertaken in furtherance of this policy is found to be inconsistent with Section 3 or 24 CFR Part 135, Section 3 or 24 CFR Part 135 shall prevail.

**Policy Statement:**

*It is the policy of the Oakland Housing Authority to provide to the greatest extent feasible economic opportunities to low- and very low-income persons residing in Oakland metropolitan area (as defined in § 135.5 of 24 CFR Part 135 and to businesses meeting the definition of "Section 3 business concern" as defined by 24 CFR Part 135.*

*A Section 3 resident is :*

- A Public housing residents and/or
- An individual who live in the area where a HUD-assisted project is located and who is either low-or very-low income persons as determined by HUD
- **Determining Income Levels:**
- Low income is defined as 80% or below the median income of that area.
- Very low income is defined as 50% or below the median income of that area.

*(Income Limits are subject to change. Current Income Limits may be accessed on the OHA website at [www.oakha.org](http://www.oakha.org).)*

**Section 3 business concern** is a business that:

- Is 51 percent or more owned by Section 3 residents;
- Whose permanent, full-time employees include persons, at least 30% of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

In furtherance of this policy the Oakland Housing Authority shall develop programs and procedures necessary to implement this policy covering all procurement contracts where labor and/or professional services are provided, in order to achieve the goals outlined below. This policy does not apply to routine maintenance, repair or replacement work using HUD housing and community development assistance for housing rehabilitation; nor does it apply to contractors who only furnish materials or supplies

through OHA's procurement program, and do not undertake work, as in the installation of the material or equipment. All covered contracts executed after the adoption of this policy must comply with this policy.

**Goals:**

All contractors undertaking Section 3 covered projects and Section 3 covered activities on behalf of the Oakland Housing Authority are expected to meet the requirements of Section 3. Any contractor (whether or not it meets the definition of a Section 3 business), shall demonstrate compliance with the "greatest extent feasible" requirement of Section 3, must meet the numerical goals set forth below for providing training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns. In meeting the goals, contractors are to apply a system of priority selection from among those Section 3 residents eligible pursuant to § 135.34, 24 CFR Part 135:

*First priority* - residents of the development where the work is to be performed.

*Second priority* - other residents of Oakland Housing Authority properties.

*Third priority* - other residents of Oakland who are participants of HUD Youth build programs being carried out in the City of Oakland.

*Fourth priority* - other persons from the Oakland metropolitan area who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

Furthermore, for all construction contracts in excess of \$100,000, contractors and their subcontractors are required to utilize appropriate State-approved apprenticeship programs that have graduated apprentices as a means to meet the Section 3 employment goals.

**Employment:**

All contractors will seek the greatest extent feasible to achieve a level of 30% of all new hires to be low to very low-income residents of the Oakland metropolitan area.

**Preference for Section 3 business concerns:**

It is OHA's policy to conduct all procurement transactions in a competitive manner. Within this framework, preference shall be awarded to Section 3 business concerns according to the following system:

**Small Purchases:**

For Section 3 covered contracts aggregating no more than \$100,000, the Authority shall follow its small purchase procedures as outlined in its procurement policy. *Small Purchases require at least 3 competitive quotes. Purchases under \$2,000 (also known as Micro Purchases) do not require competitive quotes.*

**Competitive (Sealed) Bids (IFBs):** (IFB=Invitation For Bids)

Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

1. Bids shall be solicited from all businesses (Section 3 business concerns and non Section 3 business concerns). An award shall be made to the qualified Section 3 business concern with the highest priority ranking (as defined in 24 CFR Part 135) and with the lowest responsive bid if that bid:
  - A. is within the maximum total contract price established in the Authority's budget for the specific project for which bids are being taken; and
  - B. is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

X = lesser of:

When the lowest responsive bid is less than \$100,000 . . . .10% of that bid or \$9,000

When the lowest responsive bid is:

At least \$100,000, but less than \$200,000 . . . .9% of that bid or \$16,000

At least \$200,000, but less than \$300,000 . . . .8% of that bid or \$21,000

At least \$300,000, but less than \$400,000 . . . .7% of that bid or \$24,000

At least \$400,000, but less than \$500,000 . . . .6% of that bid or \$25,000

At least \$500,000, but less than \$1 million . . .5% of that bid or \$40,000

At least \$1 million, but less than \$2 million . .4% of that bid or \$60,000

At least \$2 million, but less than \$4 million . .3% of that bid or \$80,000

At least \$4 million, but less than \$7 million . .2% of that bid or \$105,000

\$7 million or more . . . .1 1/2% of the lowest responsive bid, with no dollar limit.

2. If no responsive bid by a Section 3 business concern meets the requirements of paragraph 1 of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.
3. In both paragraph 1 and 2 above, a bidder, to be considered as responsible, must demonstrate compliance with the "greatest extent feasible" requirement of Section 3.

Competitive Proposals (RFP) (*RFP=Request For Proposals*)

Where the Section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. In accordance to 24CFR135, the rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating systems. Proposals from firms not demonstrating compliance with the "greatest extent feasible" requirement of Section 3 shall not be considered responsible.

In accordance to 24 CFR Part 135.36, Appendix Section III(3)ii:

*“(3) Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).*

- (i) *For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.*
- (ii) *(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.”*
- (iii) *With regard to the section 3 strategy, the RFP shall require the disclosure of the contractor’s section 3 strategy to comply with the Section 3 training and employment*

*preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.*

Other Provisions:

1. Federal labor standards requirements: Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a--276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines.
2. A section 3 business concern seeking a contract or a subcontract must submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.
3. OHA will ensure compliance with section 3 requirements through efforts that may include the following:
  - A. Requiring that contractors submit relevant documentation certifying their eligibility for preference under the section 3 program, and/or demonstrating their compliance with section 3 requirements.
  - B. Conducting ongoing section 3 compliance review of applicable contractors and take appropriate action when they are found to be noncompliant with section 3 requirements.
  - C. Refraining from entering into a contract with any contractor after notification by HUD that the contractor has been found in violation of section 3 regulations.
  - D. Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;
  - E. Notifying potential contractors for section 3 covered projects of the requirements of this part.
4. All OHA section 3 covered contracts shall include the following clause set forth in 24 CFR 135.38:
  - A. The work to be performed under this contract is subject to the

requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Definitions:

The Oakland Housing Authority incorporates into this policy the definitions contained in § 135.5 of 24 CFR Part 135 Further, the Oakland Housing Authority makes no representation concerning

interpretation and meaning of Section 3 of the Housing Act of 1968, as amended, and of 24 CFR Part 135 beyond this policy. It is recommended that interest parties refer directly to the law and regulations for a complete understanding of their meaning.

## ATTACHMENT O

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### Vendor Protests & Claims Procedures

# **VENDOR PROTESTS AND CLAIMS PROCEDURES**

(As extracted and revised  
from Oakland Housing Authority  
Contracting and Purchasing Procedures)

SECTION 1.19 VENDOR PROTESTS AND CLAIMS PROCEDURES

The following are the definitions of terms used in this section.

**Definitions:**

*OHA:* The abbreviation for the Housing Authority of the City of Oakland, California.

*Contracting*

*Officer:* The Executive Director of OHA or the person designated by the Executive Director in writing.

*Vendor.* The person or firm that is involved in bidding, proposing, or quoting on an OHA material or service requirement, or has contracted with OHA to provide material or perform a service, or a person who has an interest in such matters.

*Claim:* The assertion of facts which serves as the basis for a demand of payment, reimbursement, or compensation believed by the vendor to be due the vendor. The claim must be submitted in writing, by the affected vendor, on the "Notice of Protest or Claim" form (MMO9501) furnished by OHA (copy attached).

*Protest:* A written complaint about, or an objection to, an administrative action or decision by OHA. The protest must be submitted, including any and all facts on which it is based, by the affected vendor, on the "Notice of Protest or Claim" form (MMO-9501) provided by OHA (copy attached).

*Response to*

*Solicitation:* The vendor's written bid, quotation or proposal submitted in response to OHA's call for bids, quotations or request for proposals.

**Who May Submit A Protest or Claim:**

Any person as defined above in "Vendor" may submit a protest or claim.

Vendor protests, claims, or disputes shall be resolved using the following procedures:

**A. Vendor protests prior to bid, quote or proposal opening:**

1. Vendor must submit a written notice of protest to OHA's Contracting Officer eight or more calendar days prior to the date set for the bid, proposal, or quotation opening.
2. Immediately upon receipt of the vendor's notice, the Contracting Officer shall date-stamp the notice and send a letter to the vendor acknowledging receipt of the notice. The Oakland Housing Authority acknowledgement shall indicate if the notice was filed within if required time period. A late notice is not eligible for consideration under this procedure. Any protest received after eight days prior to the date set for the bid, proposal, or quotation opening may be rejected without further consideration or may be considered under paragraph B below at the direction of the Contracting Officer.
3. Contracting Officer shall review the solicitation record to ensure the information provided by the protesting vendor is accurate. Based on a review of the vendor's protest and other relevant information, the Contracting Officer shall prepare a "Finding of Fact."
4. Based upon the "Finding of Fact," the Contracting Officer may elect to:
  - a. Amend the Invitation to Bid by addendum to all prospective vendors. Addendum is to be mailed by registered mail, four or more days prior to the date of scheduled bid opening.
  - b. Terminate the current Invitation to Bid, Quote, or Request for Proposal.
  - c. Reject the claim in writing, detailing reason(s) for the rejection.

**B. Protests after the bid, quote, or proposal opening, but prior to award of contract:**

1. Vendor must submit a written notice of protest to the Authority's Contracting Officer within three calendar days of the bid opening date.
2. Immediately upon receipt of the vendor's notice, the Contracting Officer shall date-stamp the notice and send a letter to the vendor acknowledging receipt of the notice. The Oakland Housing Authority acknowledgement shall indicate if the notice was filed within the required time period. A late notice is not eligible for consideration under this procedure.
3. The vendor's protest, along with the solicitation's tabulation sheet, scope of work, copies of all responses received, and any other relevant documents shall be provided to the Contracting Officer. The Contracting Officer shall review the vendor's protest and the circumstances and prepare a "Finding of Fact."

4. Based upon the "Finding of Fact," the Contracting Officer may take any of (but is not limited to) the following actions:
  - a. Allow the vendor to withdraw the vendor's response to the solicitation.
  - b. Reject one or more vendor(s) response(s) to the solicitation for failing to be complete, lacking the required guarantee, or failing to conform to the solicitation's instructions.
  - c. Reject all of the responses to the solicitation.
  - d. Disqualify one or more vendor (s) as non-responsible and therefore ineligible for an award of contract.

Note: If the dollar amount of the lowest responsible response to the solicitation is such that the Board of Commissioners must approve the award of the contract, the Contracting Officer shall make a recommendation of action to the Board ratifying this finding (a-d above).

**C. Protests or claims after the award of contract (to be utilized in the absence of contractual language governing protests or claims):**

1. The vendor must, submit a written notice of protest or claim to OHA's Contracting Officer within seven calendar days. The time period shall start the day immediately following the date of the incident on which the notice is based.
2. Immediately upon receipt of the vendor's notice, the Contracting Officer shall date-stamp the notice and send a letter to the vendor acknowledging receipt of the notice. The Oakland Housing Authority acknowledgement shall indicate if the notice was filed within the required time period. A late notice is not eligible for consideration under this procedure.
3. The Contracting Officer, with reasonable promptness (after obtaining the approval of HUD, if required), shall render a written decision to the vendor. Unless the vendor, within seven calendar days after the receipt of the decision, notifies the Contracting Officer in writing that it takes exception to such decision, the decision shall be final and conclusive.
4. The Contracting Officer's decision shall be final unless the vendor has accomplished all of the following:
  - a. Given the notice of protest or claim within the proper time period, and
  - b. Signed a final release of all claims, other than those unsettled claims listed on the final release with their separately stated amounts, and
  - c. Brought suit against OHA (not later than one year after final payment, or in the absence of a final payment, within one year after a written request by OHA to the vendor to submit a final invoice or release) for a disposition of the protest or claim by a court of appropriate jurisdiction.

**CONTRACTING & PURCHASING PROCEDURES**

5. Whether or not the vendor presents a protest or claim to the Contracting Officer or takes exception to a decision of the Contracting Officer, the vendor, unless directed otherwise by the Contracting Officer, shall proceed with the work as directed.

**D. OHA record requirement:**

1. OHA shall maintain a complete and detailed record of all protests and claims. The record shall include all pertinent correspondence, the written or recorded minutes of any meetings with the vendors making the protests or claims, and any information used in determining OHA's actions in the disposition of protests or claims.

# OAKLAND HOUSING AUTHORITY

## NOTICE OF PROTEST OR CLAIM

CLAIMANT: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AGENT FILING: \_\_\_\_\_

PHONE: \_\_\_\_\_

Purchase Order No.:

Invoice No.:

Bid No.:

REASON FOR CLAIM OR PROTEST (ATTACH COPIES OF DETAIL DOCUMENTS IF ANY):

(OHA USE ONLY)

NOTIFICATION: \_\_\_\_\_

DATE RECEIVED STAMP

CONTRACTING OFFICER: \_\_\_\_\_

FILING DATE: \_\_\_\_\_

COMMENTS: \_\_\_\_\_