

**Master Services Agreement
MA-003-23011335**

This MASTER SERVICES AGREEMENT ("Agreement") is entered into as of April 21, 2023 by and between the County of Orange, a political subdivision of the State of California, acting through its Auditor-Controller ("Government"), and the Government Finance Officers Association of the United States and Canada, an Illinois not-for-profit corporation, having its offices at 203 North LaSalle Street, Suite 2700, Chicago, Illinois 60601 ("GFOA" or "Consultant"). Government and GFOA are collectively referred to herein as the "parties" and each individually as a "party".

Recitals

WHEREAS, Government desires to contract with GFLOA to provide Services, as defined herein, based on the terms and conditions as set forth in this Agreement; and GFOA agrees to provide such Services, as defined herein, to Government, based on the terms and conditions as set forth in this Agreement.

Agreement

NOW, THEREFORE, in consideration of the promises, the mutual agreements herein set forth below, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated in this Agreement by reference and made a part hereof.
2. **Consulting Services.**
 - a. **Statements of Work.** GFOA shall, in accordance with the terms of this Agreement, perform the services and provide the Deliverables (as defined below) described in, and shall invoice Government for services rendered according to the schedule outlined in, any "Statement of Work" (also referred to herein as an "SOW") executed by the parties in writing from time to time that references and incorporates the terms of this Agreement (all services that GFOA performs, or is obligated to perform, under this Agreement and any SOW are collectively referred to as the "Services"). Each SOW shall include a detailed description of the deliverables and other materials to be developed or created by GFOA for the benefit of Government (collectively, the "Deliverables"). All SOWs shall be incorporated in this Agreement immediately upon execution by both parties and shall be deemed as accepted under the terms of this Agreement as of the Effective Date. If Government and GFOA commence work prior to signing a SOW, the parties agree that the completed SOW is incorporated in this Agreement, shall be deemed as accepted under the terms of this Agreement as of the Effective Date, and shall apply to the Services provided prior to signing the SOW. The initial SOW between the parties is attached hereto as Attachment A and incorporated herein by reference.
 - b. **Change Orders.** Government may, from time to time, request in writing changes to a SOW. Upon Government's written request to modify the SOW, GFOA will submit a written proposal stating whether it believes it can make the changes and, if so, the estimated cost and schedule for delivery. If Government authorizes such written proposal, the parties shall reasonably describe the change and outline the modified terms to the applicable SOW in a written change order signed by an authorized representative of each of the parties (a "Change Order"). Any Change Order shall be incorporated by reference and attached as an appendix to the applicable SOW.

- c. **Contacts.**
- i. GFOA shall assign an engagement manager ("GFOA Engagement Manager") to serve as Government's primary contact with respect to the Services. The GFOA Engagement Manager will be responsible for overseeing the Services and addressing any issues or concerns raised by Government with respect to this Agreement or the Services. GFOA's initial GFOA Engagement Manager is Mike Mucha, GFOA Director, Research and Consulting.
- d. **Standard of Work.** GFOA shall verify that each GFOA employee or contractor assigned to perform the Services is competent and qualified to provide such Services. The performance of the Services pursuant to the terms of this Agreement shall conform to commercially acceptable professional standards in the field of public finance. GFOA shall use commercially reasonable efforts to formulate opinions and create information upon which the Government may reasonably rely. The substance of such opinions and information, however, is not guaranteed by GFOA to be free from omission or errors except insofar as such errors or omissions occur as a result of gross negligence or willful misconduct by GFOA.
- e. **Order of Precedence – Services.** In the event there is a conflict between this Agreement and a SOW, the applicable SOW will control if it specifically refers to the conflicting provision in this Agreement. In the event there is a conflict between a Change Order and this Agreement or a SOW, the Change Order will control if it specifically refers to the conflicting provision in this Agreement or the SOW, as applicable.

3. **Proprietary Materials.**

- a. **Work Product.** As used in this Agreement, "Work Product" means all Deliverables developed, produced, or created by GFOA (including its employees and contractors) for Government as part of the Services and pursuant to this Agreement and any SOW including, without limitation, all reports, presentations and related materials; provided, however, Work Product does not include any GFOA Materials included or incorporated in the Deliverables.

All Work Product (excluding any GFOA Materials included or incorporated therein), upon payment of all undisputed corresponding amounts due to GFOA hereunder, shall belong solely and exclusively to Government, and Government shall have exclusive title and ownership rights, including all intellectual property rights, in and to such Work Product. To the extent that exclusive title or ownership rights may not originally vest in Government as contemplated herein, GFOA hereby assigns to Government all right, title and interest, including all intellectual property and ownership rights, in such Work Product. To the extent permitted under the U.S. Copyright Act (17 USC §101 et seq., and any successor statute thereto), the Work Product will constitute "works made for hire," and the ownership of such Work Product will vest in Government at the time they are created. In any event, GFOA agrees to assign and transfer to Government, without separate compensation, all right, title and interest that GFOA may now or hereafter have in or to the Work Product, including, without limitation, all copyright, trademark, trade secret, patent and other intellectual property and proprietary rights therein. To the maximum extent allowed, GFOA irrevocably and unconditionally waives, in perpetuity, any rights GFOA may have with respect to the Work Product under any law relating to "the moral rights of authors" or any similar law throughout the world.

- b. **Government Materials.** As between the parties, Government shall own all right, title, and interest in and to all content, information, data, information, ideas, concepts, visions or other materials supplied by or on behalf of Government to GFOA in connection with this Agreement (collectively, the "Government Materials").

GFOA shall acquire no right, title, or interest hereunder to the Government Materials, except that Government grants GFOA a limited, revocable, non-exclusive, non-transferable license (strictly in accordance with this Agreement and the applicable SOW and the purposes reasonably inferable to have been intended thereby) to use the Government Materials during the term of the applicable SOW, solely as necessary and appropriate for the performance of GFOA's duties and provision of Services to Government under such SOW.

- c. **Retained Rights.** Government acknowledges that GFOA conducts ongoing research and consulting services for other governments and clients and has accumulated expertise in this field. Notwithstanding anything set forth in this Agreement to the contrary and the foregoing provisions of this Section 3, GFOA will retain all right, title and interest in and to all GFOA Materials and all GFOA Materials are, and shall remain, GFOA's sole and exclusive property. For purposes of this Agreement and any SOW, "GFOA Materials" means all methodologies, ideas, concepts, processes, techniques, tools, solutions, trade secrets, research data, databases of information and specialized database applications, software applications, computer programming and/or coding, and other materials, information and know-how developed by GFOA or any of its contractors or affiliates prior to the execution of this Agreement, during the Term of this Agreement or independent of the Services being provided under this Agreement or any SOW. Government shall not have or obtain any right or title to or interest in the GFOA Materials (or in any modifications or enhancements thereto) except as explicitly set forth in this Agreement. GFOA makes no express or implied warranties of any kind regarding the GFOA Intellectual Property.
- d. **Licenses.**
- i. Notwithstanding anything set forth herein to the contrary, GFOA hereby grants Government a perpetual, irrevocable, nontransferable and non-assignable license to publish or disseminate the GFOA Materials included in the Deliverables; provided, however, Government shall not publish or otherwise disclose or use, in any manner, any portion of the GFOA Materials constituting or including GFOA's Confidential Information (as defined below). Government does not have the right to make derivative works from or based on the GFOA Materials.
 - ii. In recognition of the fact that GFOA is an educational, not-for-profit, professional membership association, Government hereby grants GFOA a perpetual, irrevocable, royalty free license to use, publish, disseminate, reproduce, prepare derivative works of, perform, modify, and display publicly the Work Product (and any Government Materials included therein) as it sees fit in its sole and absolute discretion; provided, however, GFOA shall not publish or otherwise disclose, in any manner, any portion of the Deliverables constituting or including Government's Confidential Information (as defined below).
4. **Acceptance.** Government is entitled to Review and Evaluate the Services (including each phase of the Services, as applicable) including any Deliverables that are provided to Government pursuant to an SOW. The term "Review and Evaluate" means review and evaluation performed by or on behalf of Government to determine whether Services (or any phase of the Services, as applicable), including related Deliverables, comply with any specifications, requirements, or criteria set forth in the SOW. If Government reasonably determines that such Services (or phase of Services, as applicable) comply with the foregoing or otherwise decides in its sole discretion to accept the Services, Government will notify GFOA in writing of its acceptance of the Services ("Acceptance"). Absent written notice of Acceptance, Government automatically shall be deemed to have accepted all Services (including those in a given phase, as applicable) and the Deliverables resulting therefrom upon the earlier to occur of the following: (i) Government's payment of any invoices received from GFOA with respect to such Services (or phase); (ii) Government's use of the Services and/or any Deliverables; or (iii) the Payment Date (as defined below). Upon Acceptance,

Government shall be deemed to have released Consultant from any liability resulting from such phase of the Services.

If Government determines in good faith that the relevant Services or any portion or phase thereof are not acceptable, it shall notify GFOA in writing and provide sufficient detail to GFOA describing the reasons the Services are deficient. GFOA will make such commercially reasonable revisions, corrections or changes as may be necessary at its sole cost and expense within a reasonable period of time, and within ten (10) days after such corrections have been made Government will review the relevant Services and Deliverables. If the relevant Services still fail Government's Review and Evaluation, Government will grant GFOA a reasonable amount of additional time to provide a workable solution at GFOA's sole cost and expense.

5. Government Responsibilities.

- a. Excuse for Government's Failure to Perform. Government's failure to perform its responsibilities as defined in any SOW, or in any mutually agreed upon Change Order, may result in a delay in GFOA's performance of the Services. If and to the extent such a failure by Government directly, materially, and adversely affects GFOA's ability to perform under such SOW or Change Order and GFOA promptly notifies Government thereof in writing, then: (i) such failure by Government shall excuse GFOA's failure to fulfill its related responsibilities under such SOW or Change Order, and the timeline for GFOA's performance shall be extended, on a day-for-day basis, to account for the delay caused by Government's failure; and (ii) if Government's failure to perform its responsibilities in a timely manner prevents GFOA from, or delays GFOA in, performing the Services in a manner that materially increases the cost, risk, duration, or level of effort of GFOA's performance of its obligations under the applicable SOW or Change Order, GFOA may be entitled to an equitable adjustment in the compensation otherwise payable to it under such SOW or Change Order, with any such adjustment to be addressed through a mutually agreed upon Change Order.
- b. Access. Government agrees to give GFOA and its employees and contractors access to staff and the Government owned properties as required to perform the Services. In the event GFOA (including its employees and contractors) requires access to Government's office(s) or certain Government information, source code or Government's network and servers in order to be able to effectively provide the Services the GFOA Engagement Manager shall request such access by way of a written request delivered to the Contract Administrator. Upon receipt of such request, Government shall (i) provide GFOA's employees and contractors adequate work space at one or more Government locations as may be mutually agreed upon by the GFOA Engagement Manager and Contract Administrator; and (ii) provide only such access rights are necessary for GFOA to effectively perform the Services, including remote access, utilizing VPN or another mutually agreed upon remote access technology to access Government programs and data from remote locations or GFOA's offices. GFOA agrees that its employees and contractors shall access only that Government information which is necessary in order to fulfill GFOA's obligations hereunder and shall strictly adhere to all security protocols, including without limitation accessing Government's source code solely through the Government's source code management system, established by Government.
- c. Third Party Vendors. Government acknowledges and agrees that it is responsible for all decisions it makes based on the information and recommendations provided by GFOA and acknowledges that (i) GFOA is not a software provider, systems integrator or other supplier or vendor; (ii) GFOA's role is solely to provide information, analysis and advisory services; and (iii) any decision made by Government with respect to engaging or contracting with any software, services or other vendor or supplier is solely that of the Government and Government bears all responsibility for such decisions. Accordingly, Government agrees

that Consultant shall bear no responsibility and shall incur no liability with respect to the performance or provision of any software, hardware, or implementation services (as applicable).

6. **Term.** The term of this Agreement ("Term") shall begin on the Effective Date and continue until such time as the Services are completed by GFOA in accordance with the terms of the SOW, unless terminated earlier by either party as provided in Section 7 of this Agreement.

7. **Termination.**

- a. **Termination Upon Breach.** Either party may terminate this Agreement by providing thirty (30) days written notice to the other party in the event: (i) the other party is in breach of any of its obligations under this Agreement and fails to remedy such breach within ten (10) days following written notice from the other party, (ii) the other party ceases to do business (in whole or in part), becomes or is declared insolvent or bankrupt or is the subject of any proceedings relating to its insolvency or liquidation, or (iii) in the event the other party is subject to a merger in which it is not the surviving or controlling party.
- b. **Termination for Convenience.** Either party may terminate this Agreement or any SOW hereunder at any time, with or without cause, upon thirty (30) calendar days advance written notice to the other party. Notwithstanding anything to the contrary in this Agreement or any SOW, in the event of any termination under this Section 7.b, Government will only be liable to make any payments which are due hereunder (or any applicable SOW) to GFOA for work actually performed in accordance with the terms and conditions herein (or in any applicable SOW) up to the effective date of such termination.
- c. **Termination of SOW.** Termination of any SOW shall not serve to terminate any other SOW or this Agreement unless expressly stated in the notice of termination. Unless specifically provided in the termination notice, termination of this Agreement shall also not terminate any SOW and, with respect to any particular SOW, the terms and conditions of this Agreement shall remain in full force and effect until the expiration or termination of such SOW.
- d. **Effect of Termination.** Upon termination of this Agreement for any reason GFOA shall promptly (i) promptly terminate its provision of the Services; (ii) deliver to Government all Deliverables completed at the time of termination or expiration provided Government has paid all sums due and owing GFOA in connection with this Agreement and all outstanding SOWs; and (iii) return all Government Materials and Confidential Information provided by Government to GFOA during the provision of the Services.

Upon termination of this Agreement for any reason, Government shall (i) pay GFOA all Services rendered and fees charged up to and including the effective date of such termination on a time and materials basis using the rates set forth in Attachment A; and (ii) reimburse GFOA for all expenses incurred by GFOA in accordance with the terms of this Agreement (including, with respect to GFOA's expenses in accordance with the provisions of Section 11) up to and including the effective date of such termination. Final payment of all sums due to GFOA shall be due within fifteen (15) calendar days following the effective date of the termination of this Agreement or any SOW entered into hereunder.

Any provision of this Agreement which, by its nature, would survive termination or expiration of this Agreement will survive any such termination or expiration, including the provisions of Sections 3, 5.c, 7.d, 8, 9, 11, 13, and 14.a -c, e-g and j.

8. Confidential Information.

- a. **Definition.** For purposes of this Agreement, "Confidential Information" shall mean all information marked as confidential, and all trade secrets, processes, works of authorship, inventions, discoveries, developments, systems, computer programs, code, algorithms, formulae, methods, ideas, know-how, functional and technical specifications, designs, passwords, analysis, research, business plans, pricing strategies, data, source code, programming code and other documentation created under this Agreement in conjunction with the Services rendered, and all other information which, if disclosed to a third party, could adversely affect the relevant party or its business interests. Confidential Information shall not include: (i) information known to the receiving party prior to entering into this Agreement; (ii) information independently developed by the receiving party without use of or reference to the other party's Confidential Information; (iii) information in the public domain through no wrongful act or breach of this Agreement; or (iv) records subject to public disclosure pursuant to the California Public Records Act, provided that, in the event of a request for GFOA records marked as confidential, Government shall provide GFOA written notice of such request and GFOA shall have 10 calendar days to deliver to Government an order by a court of competent jurisdiction directing Government not to disclose such records.
- b. **Obligations.** Government and GFOA agree to:
- i. protect and safeguard the confidentiality of the other party's Confidential Information with at least the same degree of care as it would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care;
 - ii. not use the other's Confidential Information, or permit it to be accessed or used, for any purpose other than in connection with the provision of the Services pursuant to the terms of this Agreement;
 - iii. not disclose any such Confidential Information to any person or entity, except to their respective employees, officers, directors, partners, consultants, agents or advisors (collectively, "Representatives") who:
 1. need to know the Confidential Information in order to assist the disclosing party, as applicable, or act on its behalf, in relation to provision of the Services or to exercise its rights under this Agreement;
 2. are informed by the disclosing party of the confidential nature of the Confidential Information; and
 3. are subject to confidentiality duties or obligations to the disclosing party that are no less restrictive than the terms and conditions of this Agreement.
 - iv. be responsible for any breach of this Agreement caused by any of its Representatives, including, without limitation, the Consultants.
- c. **Standard of Care.** The parties agree to use all commercially reasonable best efforts to protect unauthorized use or distribution of Confidential Information. Both parties agree that any unauthorized use or disclosure of the other party's Confidential Information in a manner inconsistent with the terms of this Agreement may cause the relevant party irreparable damage for which remedies other than injunctive relief may be inadequate. The obligations outlined in this paragraph shall apply to all authorized employees, contractors and agents of each party who have access to or are in a position to obtain Confidential Information. The parties agree to return or destroy all Confidential Information that it obtained from the other

party upon expiration or termination of this Agreement without retaining copies thereof. Upon expiration or termination of this Agreement, GFOA and Government shall verify in writing that they have complied with the provisions of this section.

9. Representations and Warranties; Indemnity.

- a. **Authority.** GFOA represents and warrants that: (i) it is properly incorporated and in good standing in its state of incorporation; (ii) has the authority necessary to enter into and carry out the obligations set forth in this Agreement; and (iii) has the authority to grant the licenses and rights it purports to grant to Government in this Agreement.
- b. **Services.** GFOA represents and warrants that it will provide the Services in compliance with all applicable laws, rules, regulations, and ordinances, and in accordance with this Agreement and the applicable SOW, generally accepted industry standards, and all applicable policies of Government regarding confidentiality, security, and conduct on Government's premises.
- c. **Non-Infringement.** GFOA represents and warrants that the Deliverables and the Services, other than any third party property authorized by Government to be incorporated therein, will not infringe upon or violate any patent, copyright, trade secret, trademark or other proprietary right of any third party (or that GFOA has obtained from any such third parties the rights to use and to permit Government to own the Deliverables).
- d. **Mutual Indemnification.** Subject to the limitation on liability and Liability Cap set forth below in Section 13 below, each party (the "Indemnifying Party") shall indemnify, defend and hold harmless the other party (the "Indemnified Party") and its respective officers, directors, employees and agents against any and all actions, controversies, demands, suits, proceedings, claims, causes of action, liabilities, losses, costs, interest, penalties, demands, expenses and damages of any kind whatsoever (including reasonable attorneys' fees and costs incurred in connection with the arbitration or resolution of any dispute as set forth herein) (collectively, "Losses") related to or arising, directly or indirectly, from any claims of third parties against an Indemnified Party arising out of the gross negligence or willful misconduct of the Indemnifying Party or any of its employees and/or agents.

10. Location and Facilities. GFOA may perform aspects of the Services at Government's offices or Government's designated sites. GFOA reserves the right to perform work at locations other than Government's offices or Government's designated sites as reasonably deemed appropriate by GFOA.

11. Payment Terms.

- a. **Invoices.** GFOA shall provide Government with an invoice setting forth GFOA's fees for the Services and any reimbursable expenses incurred, which will, unless otherwise set forth in the SOW, be billed on a project basis (i.e., fixed fee). Unless otherwise specified in the SOW, Government shall pay invoices received from GFOA within thirty (30) calendar days of Government's receipt of the invoice ("Payment Date") and invoices shall be issued upon the completion of the Services and/or phases or milestones set forth in the applicable SOW.
- b. **Past Due Amounts.** Undisputed past due balances in excess of forty-five (45) days, shall accrue interest at the rate of three-quarters of a percent 1.5% per month, or the highest rate permitted by law. GFOA reserves the right to delay or suspend its Services to Government in the event Government has an undisputed past due balance with GFOA.
- c. **Taxes.** Prices quoted for license fees and other fees are exclusive of all federal, state, municipal or other political subdivision excise, sales, use, or like taxes now in force or

enacted in the future, if any, applicable to these transactions. Payment of any such taxes, except for any taxes based on GFOA's income, are the sole responsibility of Government unless Government provides GFOA with a valid tax exempt certificate therefor.

- d. **Staffing and Rates.** Consultants shall perform Services in accordance with the terms of this Agreement and the SOW. Government will pay GFOA on a project basis, unless otherwise set forth in the SOW. In the event Government pays for Services on an hourly basis, GFOA's staff/contractor time will be billed at the mutually acceptable rates set forth in the applicable SOW.
 - e. **Expenses.**
 - i. ***Travel expenses.*** Unless stated otherwise in the SOW, GFOA pricing includes travel costs for expected level of travel as identified in the SOW.
12. **Provision of Services to Third Parties.** Government agrees that this Agreement shall not preclude GFOA from providing its services to third parties.
13. **Limitation on Liability and Damages.**
- a. **Force Majeure.** In no event shall either party or its officers, directors, employees, agents, consultants or suppliers be liable under this Agreement to the other party or any other third party for any indirect, special, incidental, punitive or consequential damages (such as damages for loss of good will, work stoppage, lost or corrupted data, computer failure or malfunction, lost profits, lost business or lost opportunity), or any other similar damages resulting from a delay in performance or any failure to perform hereunder caused in whole or in part by reason of force majeure, which with respect to GFOA shall be deemed to include the occurrence of any event beyond the control of GFOA that renders performance impossible, illegal or impracticable, which shall include Government's failure to furnish necessary information with respect to details of performance on the part of the Government, war (whether an actual declaration thereof is made or not), sabotage, terrorism, insurrection, riot and other acts of civil disobedience, action of a public enemy, failure or delays in transportation, pandemic, communicable disease, laws, regulations or acts of any national, state or local government (or any agency, subdivision or instrumentality thereof), judicial action, labor dispute, accident, fire, explosion, flood, storm or other act of God, shortage of labor, fuel, raw materials, machinery or technical failures. Government shall not withhold its Acceptance by reason of delays occasioned by force majeure. Any delay resulting from force majeure shall correspondingly on a day-by-day basis extend the time for performance by GFOA.
 - b. **Limitation of Liability.** GFOA's liability for any matter arising under or in connection with this Agreement, and SOW or from any transaction contemplated herein, including without limitation the provision of the Services, in no event shall exceed the actual amount paid by GFOA's insurer as a result of any claim made with respect to such matter under the insurance policies maintained by GFOA in accordance with Section 14.d of this Agreement (the "Liability Cap"). Government acknowledges that the Liability Cap is a material term upon which GFOA has relied in entering into this Agreement and that GFOA would not have entered into this Agreement in the absence of such provision.
14. **Miscellaneous.**
- a. **Governing Law.** This Agreement shall be interpreted, construed, and governed by the laws of the State of California.

- b. **Dispute Resolution.**
- i. The parties shall attempt to resolve any claim or disputes arising in connection with this Agreement or the Services provided hereunder by escalating the dispute to a senior representative of each party, and such senior representative shall use good faith efforts to resolve the dispute. The parties shall make good faith efforts to resolve any and all disputes as quickly as possible. If the senior representatives are unable to resolve the dispute, the dispute shall be decided by arbitration as set forth below.
 - ii. Any claim or dispute of any nature between the parties hereto arising directly or indirectly from the relationship created by this Agreement or the Services provided hereunder shall be heard in a court of competent jurisdiction located in Orange County, California. If judgment is entered against GFOA and Government because of the concurrent negligence of the parties, liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Each party shall bear its own attorney's fees, costs, and expenses.
- c. **Independent Contractors.** The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee.
- d. **Insurance.** GFOA agrees that it will maintain in effect during the Term of this Agreement insurance policies in the amount and with the type of coverage shown below:
1. Workers Compensation insurance in the form and amount required by applicable law(s).
 2. Commercial General Liability insurance on an "Occurrence Basis" with limits of liability not less than \$500,000 per occurrence and/or combined single-limit bodily injury and property damage.
 3. Motor Vehicle Liability, including No-Fault coverage, with limits of liability not less than \$500,000 per occurrence and/or aggregate combined single limit, personal injury, bodily injury and property damage. Coverage shall include all non-owned vehicles, and all hired vehicles.
 4. Professional Liability, with limits of liability of \$3,000,000 per claim and policy aggregate. The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.
- If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the contract services, Contractor must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Contract.
- e. **Nondiscrimination.** In the performance of this Agreement, GFOA agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because

of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender, gender identity, gender expressions, age, sexual orientation, or veteran or military status of such persons. GFOA acknowledges that a violation of this provision shall subject GFOA to penalties pursuant to Section 1741 of the California Labor Code.

- f. **Compliance with Laws.** GFOA represents and warrants that services to be provided under this Agreement shall fully comply, at GFOA's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by Government in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by Government.
- g. **Expenditure Limit.** GFOA shall notify Government in writing when expenditures against this Agreement reach 75 percent of the Agreement's not-to-exceed amount. Government will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Agreement unless a change order to cover those costs has been issued.
- h. **Conflicts of Interest.** GFOA shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with Government's best interests. This obligation shall apply to the GFOA; GFOA's employees, agents, and relatives; subcontractors; and third parties associated with accomplishing work and services hereunder. GFOA's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to Government's best interests. GFOA shall not, during the period of this Agreement, employ any Government employee for any purpose. GFOA warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by GFOA or any agent or representative of GFOA to any Government officer or employee with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement.
- i. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision of this Agreement is held to be invalid, illegal or unenforceable under any applicable law or rule, the validity and enforceability of the other provisions of this Agreement will not be affected or impaired thereby.
- j. **Modification, Amendment, Waiver or Termination.** No provision of this Agreement or SOW may be modified, amended, waived or terminated except by an instrument in writing signed by both parties to this Agreement. No course of dealing between the parties will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any party under or by reason of this Agreement.
- k. **Assignment.** Neither party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party.
- l. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
- m. **Invoices.** GFOA will invoice the County at the end of each month for all hours/services delivered in the previous month at a rate of \$300/hour. GFOA will send invoices electronically via email. Invoices shall be sent to ACInvoices@ac.ocgov.com and will include the following information:

1. GFOA's name and address
2. GFOA's remittance address
3. Agreement number **MA-003-23011335**
4. GFOA's Federal I.D. Number
5. Services Provided (description, hours, and billing rates pertinent to each item of work)
6. Invoice Amount
7. Total Due to GFOA

Pricing			
	Total Hours	Rate	Total
Procurement Assistance	120	\$300	\$36,000
Total			\$36,000

Note: The County is not committing to these hours. Any unused hours will not be invoiced. GFOA will limit services to the not-to-exceed amount listed in the total. Individual phase totals may be exceeded with the approval of the County.

Travel costs are not included.

- n. Notices. All notices, consents, requests, instructions, approvals or other communications provided for herein shall be in writing and delivered by personal delivery, overnight courier, mail, fax or e-mail addressed to the receiving party at the address set forth herein. All such communications shall be effective when received.

If to GFOA:

Government Finance Officers Association
 203 North LaSalle Street, Suite 2700
 Chicago, Illinois 60601
 Attention: Mike Mucha (or the current GFOA Engagement Manager)
 E-Mail: mmucha@gfoa.org

If to Government:

County's Project Manager: Office of the Auditor-Controller
 Attn: Mai Le
 1770 N. Broadway
 Santa Ana, CA 92706
 Phone: 714-834-6277
 Email: Mai.Le@ac.ocgov.com

cc: Office of the Auditor-Controller/Procurement
 Attn: Maribel Garcia, Procurement Manager
 1770 N. Broadway

Santa Ana, CA 92706
Phone: (714) 834-3504
Email: Maribel.Garcia@ac.ocgov.com

Any party may change the address set forth above by notice to each other party given as provided herein.

- o. Entire Agreement. This Agreement, including attached hereto SOW entered into hereunder, constitute the entire agreement of the parties hereto and supersedes all prior understandings, representations, proposals, discussions and communications, whether oral or written, with respect to the subject matter of this Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

County of Orange

Government Finance Officers Association of
the United States and Canada

By: 
Authorized Representative

By: 
Authorized Representative

Name: Maribel Garcia

Name: Michael Mucha

Date: 4-20-23

Date: 4/20/2023

Title: Procurement Manager

Title: Deputy Executive Director

ATTACHMENT A STATEMENT OF WORK

GFOA will provide quality assurance, advisory services to the County as part of the ERP procurement and implementation project. GFOA's focus will provide quality assurance, advisory services on procurement strategy, business process improvement, policy development, change management, deliverable review, project management support, contract compliance, and risk management. For this project, GFOA will focus on procurement assistance in reviewing the County's developed request for proposals (RFP) for replacement ERP vendor (including both software and professional implementation services). GFOA will provide recommendations on proposed edits to either remove, modify, or enhance the County's RFP draft.

Implementation and Acceptance	
<i>Duration</i>	• As Needed
<i>On-Site Presence</i>	• Remote
<i>Cost</i>	• \$300/Hour
<i>Deliverables</i>	• As necessary reports with GFOA recommendations

The following services are proposed to be in scope for this project. GFOA will take direction from the County on the specific tasks and assignments and will report monthly on hours used. All services are proposed as an hourly fee where GFOA will invoice for hours worked.

Procurement Assistance

GFOA understands that the County will be looking to issue an RFP for a "Software-as-a-Service" ERP software solution, its system implementer to prepare the vendor's environment for a new ERP system for the County, and the set-up of the associated operational support services. GFOA will provide services to:

- Review County RFP
- Provide templates for RFP response
- Provide tools for vendor analysis
- Provide assistance with establishing evaluation team and evaluation criteria
- Provide other advisory services or strategic direction for the County as required

GFOA will review documentation provided by the County and provide a report identifying any GFOA recommendations or issues. GFOA will also be available to answer questions or to help mitigate any RFP risks that are identified.

This SOW incorporates all of the terms and conditions set forth in the Agreement and the Agreement governs the relationship between Government and GFOA. Any modifications to the Agreement that are agreed to by Government and GFOA must be specifically set forth in this SOW, and such modifications shall apply only to this SOW, and not to any previous or subsequent SOWs, unless expressly stated otherwise in such other SOW. All other terms and conditions of the Agreement shall remain in full force and effect. All terms not otherwise defined in this SOW shall have the meaning set forth in the Agreement. In the event of a discrepancy between this SOW and the Agreement, the terms of the Agreement shall control.



**Amendment Number One To
Master Services Agreement
MA-003-23011335**

This Amendment Number One ("Amendment") to Contract MA-003-23011335 ("Contract") is entered into as of June 30, 2023 by and between the County of Orange, a political subdivision of the State of California, acting through its Auditor-Controller ("Government"), and the Government Finance Officers Association of the United States and Canada, an Illinois not-for-profit corporation, having its offices at 203 North LaSalle Street, Suite 2700, Chicago, Illinois 60601 ("GFOA" or "Consultant"). Government and GFOA are collectively referred to herein as the "Parties" and each individually as a "Party".

RECITALS

WHEREAS, Government and GFOA executed the Contract for advisory services to the County as part of the Enterprise Resource Planning (ERP) procurement and implementation project.

WHEREAS, the Parties now desire to amend the Contract to increase the service hours by 40 hours and contract cost by \$12,000 for a revised contract aggregate cost of \$48,000.

NOW, THEREFORE, in consideration of the promises, the mutual agreements herein set forth below, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

ARTICLES

1. The Contract shall be amended to extend the service hours by forty (40) hours to allow additional time for the County to review the deliverables and to permit Contractor to review the County's feedback and update the deliverables accordingly. The Parties acknowledge and agree that such extension shall not increase the hourly compensation agreed to by the Parties as set forth below nor alter the Scope of Work, including deliverables, except to extend the hours for Contractor to complete its provision of the above-described services.

Original Pricing			
	Total Hours	Rate	Total
Procurement Assistance	120	\$300	\$36,000
Total			\$36,000

Additional Hours			
	Total Hours	Rate	Total
Procurement Assistance	40	\$300	\$12,000
Total			\$12,000

2. Except as specifically amended herein, all other terms and conditions of the Contract shall remain unchanged, in full force and effect.

[Signature page follows]

SIGNATURE PAGE

Pursuant to California Corporations Code Section 313, If the Contracting party is a corporation, (2) two signatures are required as further set forth in this paragraph.

The first signature shall be: (a) the Chairman of the Board; (b) the President; or (c) any Vice President.

The second signature shall be: (a) the Secretary; (b) any Assistant Secretary; (c) the Chief Financial Officer; or (d) any Assistant Treasurer.

One corporate officer may sign the document, providing that written evidence of the officer's authority to bind the corporation with only his or her signature must be provided. This evidence would ideally be a corporate resolution.

IN WITNESS WHEREOF, the Parties have executed this Contract on the dates shown opposite their respective signatures below

CONTRACTOR: Government Finance Officers Association

Michael Mucha Deputy Executive Director
Print Name Title

[Signature] 6/30/2023
Signature Date

Print Name Title

Signature Date

COUNTY OF ORANGE
A political subdivision of the State of California

Maribel Garcia Procurement Manager
Print Name Title

[Signature] 6-30-23
Signature Date