



Housing Authority of the
County of San Bernardino
Building Opportunities Together

REQUEST FOR PROPOSAL – PC1355

LANDSCAPE SERVICES IN:

COLTON, CHINO, FONTANA, MENTONE, MONTCLAIR,
ONTARIO, REDLANDS, SAN BERNARDINO, UPLAND,
YUCAIPA.

Housing Authority of the County of San Bernardino
715 E. Brier Drive
San Bernardino, CA 92408
December 2023

I. INTRODUCTION

The Housing Authority of the County of San Bernardino (HACSB) is one of the most progressive housing authorities in the Country and also the largest provider of affordable housing in San Bernardino County. HACSB proudly assists approximately 26,000 people, most of whom are seniors, individuals with disabilities, veterans, and children.

In 2008, the agency embarked on an agency wide strategic planning process with the following objectives: help clients achieve economic independence, ensure freedom of housing choice, and save taxpayer dollars through efficient work. This has allowed us to enhance our work around our mission and service philosophy. Ultimately, our Mission of empowering all individuals and families in need to achieve an enriched quality of life by providing housing opportunities and resources throughout San Bernardino County is our top priority.

As we see the demand for affordable housing increase, the limited affordable housing supply we currently have available is not enough to house the thousands of families in need. As a developer of sustainable affordable and market rate housing, over the years we have expanded our housing stock to meet the county's growing needs. Working diligently to acquire, build, and renovate properties, we incorporate the concept of mixed income communities, build utilizing green technology, and provide recreational and educational facilities for everyone's use.

Additionally, we are here as a steppingstone for families who need help building a foundation for a brighter future. Therefore, aside from providing housing, we assist our customers with ways of becoming economically independent. In collaboration with our partners, we provide family/individual case management and counseling; career training and job placement; program integrity; homeownership assistance; college scholarships, to name a few.

We value our vendors and contractors as partners in our mission to empower all individuals and families in need to achieve an enriched quality of life by providing housing opportunities and resources throughout San Bernardino County.

II. PURPOSE

The Housing Authority of the County of San Bernardino (HACSB) is seeking a qualified landscaping service company to service the HACSB's housing portfolio which includes administrative offices throughout San Bernardino County.

The Housing Authority of the County of San Bernardino (HACSB) was organized in 1941, under the U.S. Housing Act of 1937. HACSB has a governing Board of Commissioners, which are appointed by the County's Board of Supervisors. The seven commissioners serve this public agency and act as its Board of Commissioners. These individuals give generously of their time in an effort to provide decent and affordable housing to low-income families and seniors within the County of San Bernardino. An Executive Director appointed by the Board is responsible for managing the daily operations of the agency and overseeing a

staff of approximately 130 employees. Annual budget for the Authority is approximately \$100 million.

The majority of our work is to provide rental assistance to low-income families either by housing families in the 2,204 units HACSB owns and manages or by providing subsidized housing assistance to a landlord for renting their housing unit to 10,798 assisted families. We provide housing assistance based on the number of rental assistance vouchers and other affordable housing units for which we are authorized and funded through the U.S. Department of Housing and Urban Development (HUD).

A. Contact Information

This RFP is being issued, as will any addenda by the HACSB. The contact person for the HACSB is:

Brittany Cook, Procurement Officer
715 E. Brier Drive
San Bernardino, CA 92408-2841
(909) 890-0644
(909) 915-1831 - FAX
procurement@hacsb.com

Proposals and questions will not be accepted by e-mail or facsimile. All proposals must be completed and uploaded into the PlanetBids website or by paper response. Instructions listed in Section VII. Proposal Submission.

III. Contract Term

The Contract period will be for a two (2) year period beginning approximately May 01, 2024 through April 30, 2026, with three single or multiple year options to extend the contract until no later than April 31, 2029, or until such time as terminated per the terms of the agreement.

The initial engagement will be for a two (2) year period. In addition, HACSB shall have the option to extend the engagement for up to three (3) additional years, on a year-to-year or multiple year basis, at the fee in the original proposal. The optional years shall be exercised by written amendment executed by each party with Board of Commissioners approval on behalf of HACB for additional funding on option years if needed.

IV. Proposal Timeline

Release of RFP	December 21, 2023
Property Reviews	January 8-January 12, 2023
Question Due	January 17, 2023 @ 2PM
Answers to Questions	January 22, 2023
Proposals Due	January 31, 2024 @ 2PM
Evaluation Process	February 2023
Presentations	If applicable
Award of Contract	April 2024

Bid Walkthrough schedule Exhibit M (attached in Planet Bids)

HACSB may insert elective choices such as site visit, oral interviews, presentations, demonstrations, shortlist, best and final offers, etc.

Questions regarding the contents of this RFP must be submitted via PlanetBids or before time and date and directed to the RFP Contact listed in Section II, Paragraph A – Contact Information. All questions submitted will be answered and posted on HACSB's website.

V. PROPOSAL CONDITIONS

A. Authorized Signatures

All proposals must be signed by an individual authorized to bind the Proposer to the provisions of the RFP.

B. Term of Offer

Proposals shall remain open, valid, and subject to acceptance anytime within nine (9) months after the proposal opening.

C. Questions

Proposers may submit questions regarding this RFP via PlanetBids to the RFP Contact listed in Section II, Paragraph A – Contact Information by the date stated in Section IV – Proposed Timeline. All questions, without identifying the submitting company, will be compiled with the appropriate answers, and issued as an addendum to the RFP and posted on PlanetBids.

D. Required Review

Proposers should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and objectionable material must be made in writing and received by the RFP contact at least ten days before the proposal opening. This will allow issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of proposals upon which award could not be made. Protests based on any omission or error, in the content of this RFP, may be disallowed if not brought to the written attention of the RFP Contact in Section II, Paragraph A – Purpose, at least five days before the Deadline for Proposals.

E. Incurred Costs

HACSB is not obligated to pay any costs incurred by Proposer in the preparation of a proposal in response to this RFP. Proposers agree that all costs incurred in developing a proposal are the Proposer's responsibility.

F. Amendments/Addenda to RFP

HACSB reserves the right to issue addenda or amendments to this RFP if HACSB considers that changes are necessary or additional information is needed.

Changes to a proposal or withdrawal of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline.

G. Best Value Evaluation

As established in this solicitation, HACSB realizes that criteria other than price are important and will award contract(s) based on the proposal that best meets the needs of HACSB. The optimal combination of quality, price, and various qualitative elements of required services will provide HACSB the greatest or best value for its money.

H. Right of Rejection

Offers must comply with all the terms of the RFP, and all applicable local, state, and federal laws, codes, and regulations. HACSB may reject as non-responsive any proposal that does not comply with all the material and substantial terms, conditions, and performance requirements of the RFP.

Proposers may not qualify the proposal nor restrict the rights of HACSB. If Proposer does so, the proposal may be determined to be a non-responsive counteroffer and the proposal may be rejected.

No proposal shall be rejected, however, if it contains a minor irregularity, defect, or variation and if the irregularity, defect or variation is considered by HACSB to be immaterial or inconsequential, HACSB may choose to accept the proposal.

Minor informalities may be waived by the Procurement and Contracts Supervisor when they:

- Do not affect responsiveness
- Are merely a matter of form or format
- Do not change the relative standing or otherwise prejudice other offers
- Do not change the meaning or scope of the RFP
- Are trivial, negligible, or immaterial in nature
- Do not reflect a material change in the work; or
- Do not constitute a substantial reservation against a requirement or provision

In such cases the Proposer will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect, or variation or HACSB may elect to waive the deficiency and accept the proposal.

This RFP does not commit HACSB to award a contract. HACSB reserves the right to reject any or all proposals if it is in the best interest of HACSB to do so. HACSB also reserves the right to terminate this RFP process at any time.

I. Clarification of Offers

In order to determine if a proposal is reasonably acceptable for award, communications by the Facilitator for the Evaluation Panel are permitted with a Proposer to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal. The evaluation by the Facilitator may be adjusted as a result of a clarification under this section.

J. Public Records Act

All information submitted in the Proposal or in response to request for additional information is subject to disclosure under the provisions of the California Public Records Act (California Government Code section 6250, et seq.). Proposals may contain financial or other data that constitutes a trade secret. To protect such data from disclosure, Proposers should specifically identify the pages that contain confidential information by properly marking the applicable pages and inserting the following notice on the front of its response:

NOTICE

The data on pages _____ of this Proposal response, identified by an asterisk (*) or marked along the margin with a vertical line, contains information which are trade secrets. We request that such data be used only for the evaluation of our response but understand that disclosure will be limited to the extent that the HACSB determines is proper under federal, state, and local law.

The proprietary or confidential data shall be readily separable from the Proposal in order to facilitate eventual public inspection of the non-confidential portion of the Proposal.

HACSB assumes no responsibility for disclosure or use of unmarked data for any purpose. In the event disclosure of properly marked data is requested, the Proposer will be advised of the request and may expeditiously submit to the HACSB a detailed statement indicating the reasons it has for believing that the information is exempt from disclosure under federal, state, and local law. This statement will be used by the HACSB in making its determination as to whether disclosure is proper under federal, state, or local law. The HACSB will exercise care in applying this confidentiality standard but will not be held liable for any damage or injury, which may result from any disclosure that may occur.

K. Disclosure of Criminal and Civil Proceedings

HACSB reserves the right to request the information described herein from the Proposer selected for contract award. Failure to provide the information may result in a disqualification from the selection process and no award of contract to the Proposer. HACSB also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected Proposer also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of contract.

The selected Proposer may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Proposer will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the selected Proposer may also be asked to disclose whether the firm, or any of its partners, principals, members, associates, or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Proposer will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision “key employees” includes any individuals providing direct service to HACSB. “Key employees” do not include clerical personnel providing service at the firm’s offices or locations.

L. Debarment and Suspension

Proposer certifies (using Exhibit D) that neither it nor its principals or subcontracts is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.

Further, Proposer affirms that it has no record of unsatisfactory performance with HACSB in the twenty-four (24) month period immediately preceding the date of issuance of this RFP.

M. Board and Staff Communications

Under no circumstances may any member of the HACSB or any staff member other than the contact specified in Section II – Paragraph A, be contacted during this RFP process, by any entity intending to submit a response to this RFP. Failure to comply with this request will result in disqualification.

N. Final Authority to Award

The final authority to award contracts as a result of this RFP may require approval by The Housing Authority’s Board of Commissioners based on award amount.

O. Payment for Services

Payments for any and all invoices or other obligations are satisfied electronically through the Automated Clearing House (ACH) system. The Contractor will be required to authorize the HACSB to initiate payment electronically to any bank account maintained by the contractor wherever located. Contractor shall promptly comply with directions and accurately complete forms provided by HACSB required to process ACH payments.

VI. SCOPE OF WORK

I. General Requirements

- A. The Contractor shall furnish all labor, equipment, tools, parts, materials, supplies, consultants, and sub-consultants and necessary appurtenances required to perform the work required.
- B. Identify a project manager, foreperson, supervisor or lead person (ENGLISH SPEAKING) for each REGION/SERVICE AREA who is empowered to enact orders relative to the services contained in the RFP at all times throughout the Contract period. Cellular phone contact information and a brief description of the individual’s experience are strongly recommended. HACSB reserves the right to require replacement of an individual whose skills, experience, behavior, or methods prove to be deficient in any significant way that threatens the success of the project and threatens the safety of employees, residents, and community.
- C. Provide a schedule of performance for each location including start time and anticipated completion time each service day. Update this information as needed with the HACSB staff at the communities.
- D. Strictly comply with the written scope of work proposed for each location. Contractor cannot modify the scope of work without prior approval or by means of a written amendment from the Procurement Department.

- E. Understand that HACSB is not responsible for lost, stolen, damaged or destroyed material or equipment belonging to the successful offeror while in route or on HACSB property.
- F. Possess all required licenses, certifications, and insurance coverages to meet the requirements of the General Conditions and local governments. Including but not limited to City business licenses, L&I coverage, Applicator's Licenses, and Driver Licenses.
- G. Immediately remove from the property any equipment or material which pose a risk of injury or illness to residents, staff, or property. Including chemicals not permitted by Law, equipment that is faulty, leaking gas or oil, or dangerous due to missing guards or components.
- H. Remove all debris generated by the work from the property at the end of the service day. Onsite dumpsters and trash bins are not to be used to dispose of debris related to this project. It is essential that debris is blown away from units.
- I. Perform all proposed tasks in an orderly, professional, and safe manner. Take care when working around resident's home, belongings, patios, vehicles and property equipment and features.
NOTE: Properties are NON-SMOKING Communities. All personnel are prohibited from smoking anywhere on the property, including vehicles. All personnel are to adhere to all community rules while on site.
- J. Report accidental damages caused by the work to the HACSB manager or its designee for the specific location immediately.
- K. Act responsibly in resolving resident complaints generated by the work. Written notice of which will progress from the resident to the on-site staff to the Contractor's designated contact. Subsequent dissatisfaction expressed by the affected resident will be addressed by the HACSB, resident, and Contractor until a resolution can be reached. Be advised the HACSB will not pay, rebate, refund, or otherwise compensate a resident who makes a substantiated claim. All claims for damage raised by residents, visitors or guests which can be proven to relate to the work, and is not a result of HACSB's negligence, will be the responsibility of the Contractor to alleviate to the satisfaction of the affected party. HACSB staff shall not serve as a mediator between resident and Contractor. Contractor will be required to mitigate all claims directly with the resident or affected party.
- L. Employ articulate, responsible, conscientious, experienced personnel throughout the duration of the project. The HACSB reserves the rights to require replacement or reassignment of staff members who do not demonstrate the ability to perform the work in a manner consistent with standard practices.
- M. Employ safe work practices that are consistent with governing agency requirements for the type and location of the work (Cal OSHA, OSHA) at all times throughout the duration of the project. The Contractor will be the sole responsible party for insuring adherence the rules, recommendations, and guidelines. The responsibility to ensure the same level of safety on the part of subcontractors, consultants or invitees of the Contractor lies solely with the Contractor.
- N. Supply manufacturer product data for each product proposed to be used during the course of the work. Each site will be given a copy of the MSDS information for every product brought on – site for the duration of the work.
- O. Apply all materials in accordance with manufacturer recommended methods.
- P. The Contractor shall possess a valid California C-27 Landscaping CSLB License for the duration of the contract to perform all work in accordance with latest Landscape codes for the County of San Bernardino and local jurisdiction, where applicable, and according to this Scope of Work.
- Q. For public funded projects, the Contractor shall renew their registration with the Department of Industrial Relations (DIR) and submit proof of registration information, including PWCR number on a yearly basis to HACSB.

- R. The Contractor shall provide services in a thorough and workman like manner observing any laws, statues, ordinances, rules, or regulations of any governmental agencies or public authorities and to the satisfaction of the Housing Authority.
- S. The Contractor shall comply with both State and Federal Prevailing Wage requirements.
- T. The Contractor shall charge for services rendered in accordance to the contract's fee schedule. HACSB is not responsible for the contractor's failure to properly bid for this project.
- U. The Contractor shall provide all labor, equipment, and materials necessary to complete all the necessary work.
- V. Additional services (upon request of the Maintenance Supervisor/Property Manager or): HACSB may need additional services for a specific property. Please provide an attachment to your bid which covers the following items:
 - Cost estimates for main line, timers, and valve repairs or replacements
 - Installation of additional shrubs and plants.
 - Additional single-family properties on an as-needed basis
 - Rodent treatment (possums, etc.)
 - Additional repairs/replacement of equipment, plants, or services on an as needed basis.
- W. Contractor must provide a detailed invoice of the work performed on a monthly basis.

II. Specifications

The Contractor shall provide landscape repair and maintenance to **all properties** associated with housing units (residential) and office buildings (commercial) that include, but not limited to:

Removal of Trash and Debris: Weekly

Contractor shall, prior to beginning service at a site, remove all trash and debris (i.e., papers; cardboard; bottles, broken glass, sticks branches, etc.) from the landscaped and applicable paved areas so that the Contractor's staff may maintain safety and provide service in a professional manner. Contractor shall remove and properly dispose of all clippings, trimmings, or cuttings as a result of their work in accordance with local and state regulations. Remove all debris generated by the work from the property at the end of the service day. Onsite dumpsters and trash bins are not to be used to dispose of debris related to this project. When using a blower, it is required that landscapers blow debris away from the units when performing services.

Turf: Weekly

During the growing season (spring, summer, and fall) to be mowed and edged **once a week** or as weather conditions allow. However, if weather conditions require a modification to these dates due to warmer, cooler, or wetter weather, the Contractor shall make the appropriate adjustment to the frequency of mowing, with notification to the property manager.

Landscaper shall review areas in need of reseeding and perform the reseeding as needed. (Price shall be included in the monthly contract amount) It is the responsibility of the contractor to ensure this is performed as part of the contract.

Should weather conditions interfere with weekly landscaping schedule, then landscaper shall provide landscaping services to each location the next available day within that week. Contractor shall immediately notify HACSB Manager or their designee of the next available date.

Chemicals are not to be used to edge grass. Landscapers utilizing edgers, rotary trimmers or "weed whackers" must not cause any damage to the exterior of buildings, including stucco or paint as this will be charged to landscaper as damages. Including but not limited to damages to resident's belongings and or property.

Fertilization will be performed **four times per year**. A balanced fertilizer (16-6-8 w/iron) shall be used **three times** and a high nitrogen formulation (22-0-0) in winter shall be utilized. Broadleaf and pre-emergent weed control once a year. Turf to be aerated as needed to relieve compaction. Replace of mulch as needed to cover any areas that experience erosion.

Note: In reference to fertilization of turf areas, please coordinate with the Property Manager/Maintenance Supervisor **prior** to scheduling this service to verify areas to be fertilized.

Gopher and/or Ground Squirrel control is to be included. Treatment shall be on a monthly cycle and ongoing when evidence is observed.

A California Chemical Applicator License is required to apply Roundup (glyphosate), pre-emergents, pesticides, gopher bait (strychnine) and snail bait (metaldehyde). Chemical operations must be covered by liability insurance. If you will be using these products, your staff will be required to possess the appropriate applicator license and have appropriate liability insurance coverage.

Shrub: Weekly

To be kept neat and clean and in a healthy growing condition at all times. Shrubs are to be pruned monthly for aesthetics or as directed by HACSB and fertilized two times per year with a balanced fertilizer. All chemical applications to control pests are included. The landscaper shall be fully responsible for any replacement of shrubs, which die within 12 months of planting, which shall be at no cost to owner. Also, shrubs should be maintained to ensure that they do not block windows, impede walkways; touch buildings, cooling systems and electric/gas utility meters. Inspect plants for health and adjust watering as needed. Contractor to be responsible for replacement of dead plantings.

Ground Cover: Weekly

To be trimmed neatly, weed free, and kept in a healthy growing condition at all times. Edges to be trimmed straight, height to be controlled as necessary or as directed by owner. Ground cover to be contained in its original design intent and away from any existing shrubs. Ground cover shall be fertilized twice a year with a balanced fertilizer. The landscaper shall be fully responsible for any replacement of ground cover, which dies within 12 months of planting. No cost to owner to be billed.

Tree Trimming: Ongoing / Continuous

All trees and branches twenty feet in height and below are included in the monthly fee (all trees on site). Trees and branches over twenty feet will be charged as extra work and will commence only after owner approval.

Trees will be pruned with horticulturally accepted practices for form and health, which shall be done on a **quarterly basis**.

In addition, the Contractor shall remove or prevent encroachment where it blocks vision or is considered undesirable by HACSB.

Contractor shall Remove low branches, dead limbs, branches, and fronds from all trees on an ongoing basis (up to a height of 20 feet) to maintain a clearance for branches overhanging sidewalks, walks, driveway lanes and parking areas, any other common/public access areas of the properties, and fourteen (14) foot clearance for

branches overhanging beyond curb line into the paved section of streets where applicable. Contractor must trim trees, on an ongoing basis; so that they do not touch the roof, or fascia of buildings.

Irrigation: Ongoing / Continuous

Any repairs caused by Contractor's neglect shall be remedied at no cost to HACSB. All minor sprinkler head and lateral line repairs are included in proposal. Any major repairs for Region/Service Area, repair of irrigation mainline, repair of remote-control valves, and repair of automatic controller will be reported to HACSB and completed only after approval. Automatic water system to be tested weekly to insure proper coverage and operation. Programming of automatic water control system is the responsibility of the landscaper, which should reflect changes of climate and plant needs. Landscaper shall set timer(s) to comply with current and future municipal water use restrictions. For example – irrigation only permitted on certain days of week according to odd/even addresses. Other municipalities mandate no watering at all on certain days.

Additionally, Contractor is responsible for making any seasonal adjustments to the automatic watering systems to maintain a healthy growth and water conservation. Contractor shall turn off the automatic watering system during extended rainy conditions. Manual sprinklers shall be the responsibility of the landscaper. To eliminate dead areas, leaks, and to maintain the curb appeal of the properties, it is essential that the irrigation, valves, timers, sprinklers, programming, and any other water control systems on the properties require to be checked on a weekly basis and adjusted if needed.

Weed Control: Ongoing

Weed spraying with approved herbicide every two weeks in sidewalk cracks and along perimeter fencing (including the exterior sidewalk areas) to prevent growth and to eliminate trip and fall hazards. All fence lines shall be maintained free of weeds, shoots, and saplings.

Specifications for Ontario Office ONLY: (Refer to specifications for descriptions)

Removal of Trash and Debris: Every 2 Weeks

Turf: OMITTED

Shrub: Every 2 Weeks

Ground Cover: OMITTED

Tree Trimming: Ongoing

Irrigation: Ongoing

Weed Control: Ongoing

Specifications for Administration Office ONLY:

Removal of Trash and Debris: Weekly

Turf: Weekly (Please note additional specifications below):

This area shall consist of the lawn and planter areas and front entry and back areas adjacent to the building **only**, due to the fact our corporate property manager (Tri-City) has their own landscaping company who services the parkways and grass areas just adjacent to the parking lot and street.

Shrub: Weekly

Ground Cover: Weekly

Tree Trimming: Ongoing

Irrigation: Ongoing

Weed Control: Ongoing

III. General Specifications – All properties

Inclement Weather:

In the event of inclement weather which will cause the Contractor to miss their regularly scheduled service date, the Contractor shall upon such determination, Contractor shall immediately notify the Manager or their designee of the next available date, which shall be the next clear or dry day, or arrange for an alternate service date.

Seasonal Changes:

Flower changes in April and September included.

Callback Services:

Contractor shall return to work site after being notified of any deficient conditions. If two callbacks occur during a one-month period or if a total of five such callbacks occur during the contract period, the HACSB shall have the right to declare the Contractor non-performing and shall have the right to terminate the contract without penalty.

Invoice Based On Performance:

Contractor shall not charge HACSB for any missed worked days or weeks etc. HACSB will not approve invoices for work not performed. Appropriate reduction to invoices shall be made for any incomplete portion of services. Details included in Appendix B – Missed Cost of Services Percentage Breakout.

All monthly invoices must include detailed work performed.

Landscaped Areas:

These shall be generally defined as those areas on HACSB property where grass, lawn shrubs, plants and trees are installed or planted.

Paved Areas:

These shall be generally described as sidewalks, walkways, patios, curbs, parking areas and bumpers immediately adjacent to (meaning, within 30 feet) the landscaped area.

IV. Contract Pricing

- A. Cost shall include all materials, equipment, and labor for standard application.
- B. Contractor shall provide rates for: Normal Work Rates, Holiday Rates, and Weekend Rates. Overtime work shall be performed only upon the HACSB's request.
- C. Supplies and materials shall be provided to the HACSB at manufacturer's suggested retail price, less discount. The discount shall be indicated on the BID FORM.
- D. The following shall apply to all hourly rate pricing:
 1. Regular time is defined as the HACSB's normal business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday.
 2. Overtime work shall be performed only upon the HACSB's request by the Property Manager or their designee.
- E. Holiday work shall be performed only upon the HACSB's request. Holidays that qualify for holiday rate billing are as follows:

New Year's Day	Labor Day	Christmas Day
Memorial Day	Thanksgiving Day	Independence Day

- A. All hourly rates quoted “must include” overhead, profit, travel, and all administrative costs. Trip charges are not permitted under this contract.
- B. If a holiday falls on a day during the week when normal services were to be provided and the Contractor does not perform the service, then the Contractor will be required to reschedule the service to be completed on another day that same week or make arrangements with the Senior Regional Communities Manager to make up for the missed day that services were to be provided.
- C. The Contractor may be required to have the hours worked certified by HACSB personnel at the job site.
- D. Price Escalation:
After the first contract year (and at the beginning of any ensuing contract year, there may be an escalation of labor costs allowed in the same amount of an escalation that occurs pertaining to the State of California Prevailing Wage Rates or the applicable HUD MWRD. For example, if, at the end of the first contract period the listed Prevailing/MWRD wage rates increase 5% as compared with the listed rates on the date of the bid submittal deadline, the Contractor may be entitled at the departments discretion to a 5% increase in the labor rates that they submitted in response to the proposal. August 1 will be used for the baseline date to determine the listed wage rate. There shall be no more than one of these adjustments within any 12-month period during the contract. If the responsible governmental agency increases any rate more than once in a 12-month period; an exception may be granted.

V. Invoices

- A. The Contractor shall invoice in accordance to the fee schedule.
- B. The Contractor shall include on every invoice the following:
 - a. Name and address of site,
 - b. Name of requester,
 - c. Details of the Work performed in accordance with the scope of work within this contract,
 - d. Purchase Order number,
 - e. Cost of materials/supplies,
 - f. Total number of labor hours,
 - g. Total number of employees that completed work.
- C. The Contractor shall provide one point of contact for all invoicing.
- D. The Contractor shall provide receipts for materials, supplies, parts and equipment at HACSB’s request.
- E. Invoices shall be submitted monthly by location on one invoice after the service has been performed. Each site manages their invoices. Each site to be clearly identified and assigned a unique invoice number with the site address on the invoice.
- F. HACSB is prohibited by HUD to pay for services in advance.

VI. Materials, Equipment, Supplies and Parts

- A. The Contractor shall be responsible for the purchase of all materials, equipment, supplies and parts to provide the needed services. The Contractor shall purchase materials, equipment, supplies and parts that are reasonably priced and equivalent to or better than the existing.
- B. The Contractor shall use materials and equipment that are safe for the environment and safe for the use by the Contractor’s employees.

VII. Hourly Rates

- A. The Contractor shall charge only for the time worked on-site.
- B. The Contractor shall have pre-approved email when work needs to be performed after business or emergency hours.

VIII. Holiday Hours:

If a holiday falls on a day during the week when normal services were to be provided and the Contractor does not perform the service, then the contractor will be required to reschedule the service to be completed on another day that same week or make arrangements with the Manager to make up for the missed day that services were to be provided.

IX. Warranties on Materials, Repairs and Parts

- A. The Contractor shall warranty repair service for not less than 180 days following the date of acceptance of the repair service by the HACSB staff.
- B. The Contractor shall provide copies of all the manufactures warranty to HACSB for materials, equipment, and parts.
- C. The Contractor shall correct defect(s) on service repairs and parts within 24 hours at no cost to HACSB.

X. Project Coordinators

- A. The HACSB project coordinator for this project is the Maintenance Supervisor, who can be contacted via telephone numbers, which will be provided to the awarded Contractor(s). Any work at the site shall be scheduled through HACSB at least forty-eight (48) hours in advance of the work.
- B. The Contractor shall provide a full-time Supervisor with 5 years of experience in managing projects of similar size and scope as contained in this Scope of Work.
- C. The Contractor shall assign a sufficient number of employees to perform the required work. At least one employee on site shall be authorized to act for the Contractor in every detail and must be able to communicate effectively.
- D. The Contractor's Project Coordinator shall have a cellular telephone, which number shall be provided to HACSB. The Project Manager or Project Coordinator shall establish a routine for communications with HACSB to provide a prompt and timely response to any concerns or problems that may arise. Time and frequency of direct meetings may vary as determined by HACSB. When the Contractor or its agents are on the site, the Project Manager shall contact HACSB at least daily to review overall performance, receive special instructions regarding the scope of work or other pertinent items regarding the contract, and the Contractor's performance.
- F. The Contractor's employees assigned to the Contract shall wear an appropriate uniform at all times. The uniform must display the Contractor's company name. All uniforms will be provided by the Contractor, at the Contractor's expense.

XI. Training

The Contractor shall provide training programs for all new employees and continuing in-service training for all employees. All employees shall be trained in their assigned tasks and in the safe handling of equipment. All equipment shall be checked daily for safety. All employees must wear safety and protective gear according to Cal-OSHA standards.

XII. Work Authorization

- A. The Contractor shall be required to visit the potential job site and submit a written quotation prior to the authorization of work, at no additional charge to the HACSB. The quotation shall be provided within" three (3) business days" of the original request and shall include a detailed summary in accordance with the contract rates. If the quotation is accepted and the work performed, the Contractor's invoice shall not exceed the quoted amount unless previously authorized by the Property Manager or their designee.

XIII. Site Control

- A. Any areas being worked in shall be secured from public access, clearly marked, and barricaded, if necessary. At all times, work shall not interfere with ingress or egress of the building or normal operations by tenants, HACSB employees or vehicles. All surrounding surfaces and vegetation shall be protected from contact with any materials used in this project.
- B. The Contractor is solely responsible for damage to surrounding surfaces, facilities, vegetation, vehicles, or persons caused by its materials, equipment, workers, or agents. The Contractor shall make every effort to maintain a clean, quiet, and orderly work area throughout the term of this project. No materials or equipment shall be left on the site when the Contractor's workers are not present. The Contractor is responsible for protecting the work from damage from any source prior to final acceptance.
- C. At the completion of work, remove all materials, supplies, debris, and rubbish and leave each area in a clean, acceptable condition.
- D. It is the responsibility of the Contractor to remove from the worksite, daily, all debris and to dispose of such properly, pursuant to all applicable (local, State and Federal) codes, laws, and regulations. Debris shall not be disposed of in the HACSB dumpsters.

XIV. Day and Time

All services shall be performed on a day and time convenient to the HACSB and which will be firmly established during the negotiations held between the HACSB and the Contractor.

XV. Prevailing Wage Requirements

This contract will be funded with public funds. The bidder shall be responsible for complying with all applicable labor requirements as dictated by the type of contract/project described below:

A. HUD Maintenance Wage Rate Determined (Federal Funds) – Applicable for Affordable Housing Units

When the source of funds are determined to be in whole or partially with federal funds, Federal Labor Standards Provisions (HUD 4010) refer to Exhibit K including prevailing wage requirements of the Davis-Bacon and Related Acts (DBRA) shall be enforced. The current U.S. Department of Labor prevailing wage determinations are applicable as follows: Residential Projects (property units) – HUD Maintenance Wage Rate Determination of \$12.00 plus fringe benefits of \$.47. Non-Residential Projects (buildings) – HUD Maintenance Wage Rate Determination of \$12.00 plus fringe benefits of \$.47. The applicable DOL General Wage Determination will depend on if the location of the work to be performed is at a residential or non-residential site. These rates are the minimum rates that must be paid to ALL employees performing work in these classifications at the project site(s).

B. California State Prevailing Wage (Public Funds) – Applicable for Authority Owned Properties (AOP) and RAD properties.

For non-residential and residential projects (buildings and property units), Contractor shall pay its employees that perform such work as stated within this RFP at a rate not less than the California State Prevailing Wage for Southern California Determination #SC-LML-2019-1 issued 2/22/2019 for Locality San Bernardino of \$12.00 plus fringe benefits of \$.47. Please refer to Appendix B for the State of California Labor Code for more detail. Regardless of the funding source (federal, state, or local), the Contractor shall comply with all labor requirements of the State of California prevailing wage laws, regulations, codes, etc., applicable to this contract, including but not limited to, the following: California Labor Code Section 1770 et seq., which requires contractors to pay

their workers based on the prevailing wage rates established and issued by the Department of Industrial Relations (DIR), Division of Labor Statistics. Said rates can be obtained on the website at www.dir.ca.gov. The Contractor and Subcontractor shall also:

- 1) Pay not less than the prevailing wage to all workers, as defined in the California Code of Regulations (CCR) section 16000(a), and as set forth in Labor Code Sections 1771 and 1774;
- 2) Comply with the provisions of Labor Code Sections 1773.5, 1775, and 1777.5 regarding public works job sites;
- 3) Provide workers' compensation coverage as set forth in Labor Code Section 1861;
- 4) Comply with Labor Code Sections 1778 and 1779 regarding receiving a portion of wages or acceptance fee;
- 5) Maintain and make available for inspection payroll records, as set forth in Labor Code Section 1776;
- 6) Pay workers overtime pay; as set forth in Labor Code Section 1815 or as provided in the collective bargaining agreement adopted by the DIR Director as set forth in CCR's Section 16200;
- 7) Comply with Section 16101 of these regulations regarding discrimination;
- 8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5;
- 9) Comply with those requirements as specified in Labor Code Sections 1810 and 1813; and
- 10) Comply with any other applicable requirements imposed by the State of California.

The Federal Labor Standards Provisions (HUD 4010), including prevailing wage requirements of Davis-Bacon and Related Acts (DBRA) shall be enforced, in addition to all labor requirements of the State of California prevailing wage laws, regulations, codes, as set forth above. When federal and either state or local funds are used and a discrepancy between Federal Regulations and State Law is found to exist, the more stringent of the two shall prevail.

Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:

- a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:
 - i. No contractor or subcontractor may be listed on a bid proposal (submitted on or after March 1, 2015) for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirement for bid purposes only as allowed under Labor Code section 1771.1(a).
 - ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.
 - iii. This project is subject to compliance monitoring and enforcement by the DIR.
 - iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
 - v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all new public works projects issued on or after April 1, 2015, and for all public works projects, new or ongoing, on or after January 1, 2016.
 - 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - 2) The HACSB reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
 - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.

- vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation, or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.

b. Labor Code section 1725.5 states the following:

“A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, “contractor” includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

c. Labor Code section 1771.1 states the following:

"(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted, nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop

order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

d. Labor Code section 1771.4 states the following:

"a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.”

XVI. Service Area Locations and Funding

Provide Landscape Services for the various HACSB Authority Owned sites located throughout the County of San Bernardino as identified below:

Property: Address: City: Units: Funded: Wage:

Yucaipa Crest (Includes Admin Office)	12385 6 th St., #101-923	Yucaipa, CA	45 units	Public	Residential
Yucaipa Terrace (Includes Admin office)	12435 6 th St. , #101-1005	Yucaipa, CA	51 units	Public	Residential
Cherry Tree Lane	34192 Cherry Tree Lane	Yucaipa, CA	lot		Residential
Maplewood Scattered Sites RAD	755-765 W 8 th St 740-756 W 7 th St 1315-1325 N Davidson St 630 & 632 N J Street 1297 & 1299 N Turrill Ave 1077 & 1079 W 11 th St 2165 W Mill Street	San Bernardino	34 units	Public	Residential
Maplewood Homes RAD (Includes Admin Offices)	1738 West 9 th St.	San Bernardino	296 units	Public	Residential
Chino RAD (Includes Admin office/shop	13088 Monte Vista	Chino, CA	50 units	Public	Residential
Redlands RAD (Includes Admin offices	803 W Brockton Avenue	Redlands, CA	75 units	Public	Residential
Mt Vernon Manor RAD (Includes Admin offices)	539 E B Street	Colton, CA.	40 units	Public	Residential
Colton RAD (Includes Admin Offices)	772 Pine St.	Colton, CA	85 units	Public	Residential
Redlands 9th St RAD	26022 W 9 th Street	Redlands, CA	12 units	Public	Residential

Upland RAD (Includes Admin Offices)	1200 North Campus Ave	Upland, CA	98 units	Public	Residential
Central Office	715 E. Brier Drive	San Bernardino, CA	Building	Public	Non-Residential
Housing Programs Office	672& 680 S Waterman Ave	San Bernardino, CA	Building	Public	Non-Residential
Barstow RAD (Includes Admin/community room offices)	421 W 7 th Ave., 900 Bighorn Ave., 1900-1936 Yosemite Ct.	Barstow, CA	74 units 70 units 18 units	Public	Residential
Williams Senior RAD (includes Admin Office/community)	710-780 Williams St	Barstow, CA	40 units	Public	Residential
Waterman Gardens Vacant Property	421 Crestview Avenue	San Bernardino	Vacant Lot/2 vacant buildings	Public	Non-Residential
Waterman Gardens Shop	660 Orange Street	San Bernardino	Building	Public	Non-Residential

Note: Proposals will be accepted and awarded by geographic area. Contractors may submit proposals for all or some of the service areas. Successful Contractor(s) awarded for a service area will be required to provide their services to all locations within the geographic service area. It is the intent of the HACSB to award multiple contracts for the Agency and/or individual service area.

Scope of Services – Monthly Fee Schedule:

Region 2 – East County:
Maplewood – RAD

III. RFP Evaluation Criteria

Proposals will be evaluated based on the selection factors listed below; the relative weight that each factor will receive in the evaluation is shown below. The answers to the written questions and answers to the questions posed at the interview will be used to determine the number of points each respondent receives for each factor.

IV. SELECTION CRITERIA

All proposals will be initially evaluated to determine if they meet the following minimum requirements:

Minimum Proposer Qualifications (pass/fail):

- a. Experience of organization: Have at least three (3) years' experience in providing landscape services for other similar sized entities with similar scope.
- b. Provide at least five (5) references for which like services have been performed within the past five (5) years; The HACSB reserves the right to contact any party that

the Proposer has worked for in the past and to reject a Proposer based on past poor performance. Contractor references contain at least three (3) references must be for multi-family apartment or condominium properties. **Proposers who do not provide multi-family apartment or condominium property references may be considered as non-responsive.**

- c. Meet other presentation and participation requirements listed in this RFP.
- d. Have no outstanding or pending complaints as determined through the Better Business Bureau, State of California Contractor's State License Board and State of California Department of Consumer Affairs, and have no unsatisfactory record of performance with any public agency; and
- e. Have the administrative and fiscal capability to provide and manage the proposed services.
- f. Minimum crew size:

Contractor shall provide sufficient staffing to perform the landscape services for the complete site during a single day. Proposals must contain the number of staff that will be provided to guarantee that contractor will be able to meet the single day per site service requirement.

Proposals will be evaluated based on the selection factors listed below; the relative weight that each factor will receive in the evaluation is shown below.

Selection Factors:

Contractors' submittals will be evaluated based on the criteria listed in this section. In preparing your proposal to HACSB, it is important to clearly demonstrate expertise in the areas described in this document. Because multiple areas of expertise may be required for successfully performing projects under this RFP, the Contractor, either through in-house staff or sub-Contractors, must demonstrate expertise or have available adequate quantities of experienced personnel in all of the areas described.

Contractors are encouraged to identify and clearly label in their proposal how each criterion is being fully addressed. Evaluation of responses to this RFP will be based only on the information provided in the proposal, and if applicable, interviews, and reference responses. HACSB reserves the right to request additional information or documentation from the firm regarding its submittal documents, personnel, financial viability, or other items in order to complete the selection process.

If a responding firm chooses to provide additional materials beyond those requested, those materials should be included in a separate section of the proposal.

In submitting a proposal, the Contractor agrees that any costs or prices proposed shall be valid for a minimum of 90 days from the date of the proposal.

The following criteria with a point system of relative importance, with an aggregate total of 100 points, will be utilized to evaluate each proposal:

Evaluation Criteria		Weighting (Max. Points)
1	<p><u>Qualifications:</u></p> <ul style="list-style-type: none"> a) Firm's qualifications and experience with similar work including at least three years of demonstrated experience. b) Firm's proposals demonstrates their specialized knowledge, experience for the work required, based on work history (especially in a housing authority or a multi-unit environment). c) Capability and demonstrated ability to comply with the scope of work in the RFP. d) Capability, experience, and applicable certifications and licenses of staff to be assigned to a contract based on this RFP. e) Past performance of the firm on prior work of the same or similar nature, based on the references provided. f) Staff Training g) Proposer has a clear understanding of the scope of services required by HACSB. h) Bidder has a realistic approach to the performance of the required work. i) Bidder has proposed a sufficient number of staff and supervisors for each area they are bidding, to adequately provide the service. j) Has provided a clear and concise plan for accomplishing all services, including a timetable, staff assignments, and soundness of proposed methods of performing services. k) Prior work history with HACSB 	40
2	<p><u>Price Proposal:</u> (fees), weighted, based on lowest price at 45 points</p> $Score = \frac{Lowest Bidder's Price}{Bidder's Price} \times 45$	45
4	<p><u>Section 3 Compliance:</u> Bidder Qualifies as a Section 3 Business Enterprise or Bidder certifies that they will provide training to HACSB Participants or Section 3 income qualified individuals</p>	15
Maximum Total Points		100

HACSB desires to contract with one prime consultant to provide the services above.

1) Proposal Format

Response to this RFP must be submitted via the PlanetBids website. Click on the link to access the bid documents and details: [PlanetBids](#)

VIII. INFORMATION REQUESTED OF PROPOSERS

a. Organizational and Personnel Background

Provide an overview of your company, emphasizing its qualifications and major organizational strengths.

b. Experience

Discuss your experience, in serving as a provider of Landscape Services.

c. Miscellaneous Discussion Questions

1. Identify the specific individuals who would be assigned to work with the HACSB and specify which person would be the primary contact person with the HACSB. Please include their level of expertise in the services and certifications held by staff.
2. Provide an estimate of time that will be required to begin Landscape Services

d. Price

Provide your cost as listed in the Bid Proposal (Exhibit B) form for the rendering of the services and clearly specify if any additional expenses will be charged to the HACSB in connection with this proposal.

e. Affirmative Action

The HACSB requires that each respondent be an Equal Opportunity Employer:

State that the respondent complies fully with all government regulations regarding nondiscriminatory employment practices.

IX. COMPANY QUALIFICATIONS

Proposals shall be considered from responsible organizations or individuals engaged in the performance of Landscape Services. Proposals must include information on competency in performing comparable Landscape Services, demonstration of acceptable financial resources, and personnel staffing. The vendor shall furnish detailed information on references, as well as background and experience with projects of a similar type and scope to include as a minimum:

a. Brief history of the company

b. A listing of five (5) references where similar services were performed. The client reference shall include the name of organization, contact person, address, and telephone numbers.

c. Vendor shall describe their understanding of the project scope, their proposed approach to performing the services, and submit a proposed schedule. Offerors shall include information on experience with similar projects. Offerors shall describe how their organization can meet the requirements of this RFP and shall include the following:

- The number of years the Offeror has provided these services; *and*
- The number of clients and geographic locations that the Offeror currently provides services for.
- Provide the names and titles of the key management personnel directly involved with supervising the services rendered under this Contract along with their resumes.
- Provide the name and resume of the Offeror's Contractor Representative who, if the Offeror is selected for award, would be responsible for the daily oversight of the Contract from the Contractor's perspective.

X. RFP REQUIREMENTS AND CONDITIONS

Minimum Requirements

This RFP sets forth the minimum requirements that all submissions shall meet. Failure to submit proposals in accordance with this request may render the proposal unacceptable.

Submission Requirements

Forms included within this Request for Proposal must be included with proposal, in addition to any and all included documents for review and consideration. Failure to submit mandatory forms will result in rejection of the proposal. The required documents are as follows:

Exhibit and Appendix List

EXHIBIT A – Contact Information
 EXHIBIT B – Proposal Form – Separate attachment
 EXHIBIT C – Current Client References
 EXHIBIT D – Certification Regarding Debarment or Suspension
 EXHIBIT E – State of California Labor Code
 EXHIBIT F – Non-Collusion Affidavit
 EXHIBIT G – Section 3 Certification Form
 EXHIBIT H – HUD 5369-B (Posted as a separate attachment in Planet Bids)
 EXHIBIT I – HUD 5369-C (Posted as a separate attachment in Planet Bids)
 EXHIBIT J – HUD 5370-C Section I&II (Posted as a separate attachment in Planet Bids)
 EXHIBIT K – HUD 4010 (Posted as a separate attachment in Planet Bids)
 EXHIBIT L – SAMPLE CONTRACT (Posted as a separate attachment in Planet Bids)

APPENDIX A – DIR State of California Prevailing Wage (Residential & Non-Residential)
 APPENDIX B - Missed Cost of Services Percentage Break Out

Collusion

Proposer, by submitting a proposal, hereby certifies that no officer, agent, or employee of the HACSB has a pecuniary interest in this Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind

with any other proposer; and that the proposer is competing solely in its own behalf without connection with, or obligation to any undisclosed person or company.

Disputes

In case of any doubt or differences of opinions as to the participation sought hereunder, or the interpretation of the provisions of the RFP, the dispute process shall apply.

Contractors may appeal the recommended award, provided the appeal is in writing, contains the RFP number, is delivered to the address listed in Section II – Paragraph A of this RFP, and is submitted according to the time requirements listed below. The following shall apply to protests (unless otherwise specified, this section will use the term “protest” to also include disputes and appeals):

Solicitation: Contractors may protest a solicitation issued by HACSB. It must be received by the Procurement and Contracts Supervisor before the bid or proposal submittal deadline, or it will not be considered.

Award RFP: Any protest against the award of a contract based on an RFP must be received by the Procurement and Contracts Supervisor no later than two full business days after the bid submittal deadline, or before award of the contract, whichever is earlier, or the protest will not be considered.

Award RFP/RFQ: Any protest against the award of a contract based on an RFP or RFQ or appeal of a decision by HACSB to reject a proposal, must be received by the Procurement and Contracts Supervisor within three business days after notification to an unsuccessful proposer that they were not selected, or the protest will not be considered.

Rejection of Bid: Any protest of a decision by HACSB to reject a bid submitted in response to an RFP must be received by the Procurement and Contracts Supervisor within two business days after being notified in writing of HACSB’s decision, or the appeal will not be considered.

A written response will be directed to the appealing Contractor within fourteen (14) calendar days of receipt of the appeal, advising of the decision regarding the appeal and the basis for the decision. The decision of the HACSB shall be final and binding upon all parties.

XI. INSURANCE REQUIREMENTS

- A. **Proof of Insurance** shall not be terminated or expire without thirty (30) days written notice and are required to be maintained in force until completion of the contract. The Contractor shall require all subcontractors used in the performance of this contract to name HACSB as an additional insured. Following are the standard types and minimum amounts.

General Liability: \$2,000,000 per occurrence and \$3,000,000 aggregate; *HACSB Additional Insured.*

- Commercial General Liability:** limits of coverage for bodily injury and property damage liability of not less than \$2,000,000 per occurrence and not less than \$3,000,000 general aggregate; *HACSB named Additional Insured* on an attached endorsement.
- Comprehensive Automobile Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and aggregate; *HACSB named Additional Insured*.
- Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate **OR**,
- Professional Liability:** \$1,000,000; per occurrence and aggregate.
- Workers' Compensation:** \$1,000,000
- Self-Insurance Program**
- Environmental Liability**
- Owner's Liability**
- Fire Insurance with Extended Coverage**
- Crime/Fidelity Insurance:** \$250,000 Sufficient to cover all agents and employees employed by Property Manager;
- Excess/Umbrella Liability:** \$5,000,000; *HACSB named Additional Insured*.

B. Failure to provide proof of insurance or failure to maintain insurance as required in this bid, or by law; are grounds for immediate termination of the contract. In addition, the awarded bidder should be liable for all re-procurement costs and any other remedies under law.

C. Indemnification and Insurance Requirements

1. Indemnification

The Contractor agrees to indemnify, defend and hold harmless HACSB and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by HACSB on account of any claim therefore, except where such indemnification is prohibited by law.

2. Additional Named Insured

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming HACSB and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

3. Waiver of Subrogation Rights

The Contractor shall require the carriers of the above required coverages to waive all rights of subrogation against HACSB, its officers, employees, agents, volunteers, Contractors, and subcontractors.

4. Policies Primary and Non-Contributory

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by HACSB.

5. Proof of Coverage

The Contractor shall immediately furnish certificates of insurance to HACSB Procurement Department administering the Contract evidencing the insurance coverage, including the endorsements above required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Contractor shall furnish certified copies of the policies and all endorsements.

6. Insurance Review

The above insurance requirements are subject to periodic review by HACSB. HACSB's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of HACSB. In addition, if the Risk Manager determines that heretofore, unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized but not required, to change the above insurance requirements, to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against HACSB, inflation, or any other item reasonably related to HACSB's risk. Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

XII. CONTRACT CONDITIONS

Americans with Disabilities Act

Proposer must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes.

Law of the State of California

The resulting contract will be entered into within the State of California and the law of said state, whether substantive or procedural, shall apply to the contract, and all statutory, charter and ordinance provisions that is applicable to public contracts within the County of San Bernardino and the State of California shall be followed with respect to the contract.

Contract Terms and Final Selection

The selected company will be expected to sign the HACSB's Contract Agreement, which will specify the terms of service. If the selected applicant and the HACSB cannot come to terms with respect to the contract, the HACSB reserves the right to select the next most qualified applicant or to terminate this RFP and to re-issue a new RFP if no Proposer is acceptable to the HACSB.

Electronic Signatures

The parties of an agreement resulting from the award of this RFP shall be entitled to sign and transmit an electronic signature (whether by facsimile, PDF or other email transmission)

EXHIBIT A - Contact Information Form

To: Brittany Cook, Procurement Officer
(909) 890-6342 (909) 915-1831 Fax, or
Email: procurement@hacsb.com

This document is to acknowledge that we are in receipt of RFP #PC1355 for Landscape Services and have noted our intention to bid.

Vendor Name: _____

Address: _____

Contact/Title: _____

Phone: _____

Fax: _____

Email: _____

I PLAN TO SUBMIT A BID.

- Yes, I will be submitting a bid.
- Maybe, I need to research and get more information (contact HACSB-information listed above)

NO BID. Indicate *any* of the following. We:

- Do NOT desire to be retained on the vendor list.
- Desire to be retained on the vendor list, but decline to bid based on the following:
 - Cannot comply with specifications/scope of work, Explain: _____

 - Cannot meet delivery requirements, Explain: _____

 - Do not regularly provide this type of product/service
 - Other, Explain: _____
 - Please update my information as listed above.

HOW YOU FOUND OUT ABOUT THE BID. Indicate *any* of the following. We:

- Checked the agency website
- Received notice by fax or e-mail
- Newspaper Ad, please list paper: _____
- Trade Publication, please list: _____
- Plan Room, please list: _____
- Other, Explain: _____

EXHIBIT B - PROPOSAL FORM

Vendor Name: _____

To: The Housing Authority of the County of San Bernardino
 715 E. Brier Drive
 San Bernardino, CA 92408

Section 1 West County			Rev	
			11/2023	
Location #	Address	# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	Once a month service - 424 N. Lemon Ave., Ontario, CA 91764	N/A		
Chino Community (RAD)				
Location #	Address	# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	13088 Monte Vista Ave., Chino, CA. 91710 (includes 50 unit community-Monte Vista/Granada/Alessandro/Carrillo/C Street and / all admin bldg and maintenance shop)	50		
Upland Community (RAD)				
Location #	Address	# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	1200 N. Campus, Upland, CA. 91789 (Los Olivos) (including 98 unit community- Campus/San Ysidro/Guadalupe/Myrtle and all admin buildings)	98		
Section 2 Central County				
Maplewood Homes Community (RAD)				
Location #	Address	# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	1738 W. 9th St., San Bernardino, CA 92411 (including 296 unit community- 9th St/Wilson/Union/Maple/Alturas/Concord/10th St/Medical Ctr/Cabrera/Ramona/Tijuana/Temple and all admin buildings)	296		
		296		
Maplewood Homes Scattered Sites (RAD)				
1	755, 757, 759, 761, 763, 765 West 8 th St., San Bernardino, CA 92410	6		

2		740, 744, 748, 752, 754, 756 West 7 th St., San Bernardino, CA 92410	6		
3		1315 – 1325 N. Davidson Ave., San Bernardino, CA 92411	6		
4		630 & 632 N. "J" St., San Bernardino, CA 92410	2		
5		1297 & 1299 N. Turrill Ave., San Bernardino, CA 92411	2		
6		1077 & 1079 West 11 th St., San Bernardino, CA 92410	2		
7		2165 W. Mill St. #1-#10, San Bernardino, CA 92410	10		
			34		
Housing Programs Office					
Location #	Address		# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	672 South Waterman Ave., San Bernardino, CA 92408		N/A		
Administration Office					
Location #	Address		# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	715 E. Brier Drive, San Bernardino, CA 92408		N/A		
Colton					
Location #	Address		# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	772 Pine St. Colton, CA 92324 (including 85 unit community- Ash/Berry/Pine/Kirk/Cedar Circle/Congress and all admin bldgs)		85		
2	539 E. "B" Street, Colton, CA 92324 (including 40 unit community/all admin bldgs)		40		
	Total		125	\$0.00	\$0.00
Section 3 East County					
Yucaipa Crest					
Location #	Address		# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	12385 6th St. #101-923, Yucaipa, CA. 92399		45		
Yucaipa Terrace					
Location #	Address		# of Units	<u>Yr1</u> <u>2024-25</u>	<u>Yr2</u> <u>2025-26</u>
1	12435 6th St. #101-1005, Yucaipa, CA. 92399		51		
Redlands Community (RAD)					
Location	Address		# of	<u>Yr1</u>	<u>Yr2</u>

#		Units	<u>2024-25</u>	<u>2025-26</u>
1	803 W Brockton Ave., Redlands, CA. 92374 (includes 75 unit community-Brockton/Sun/Granada/Carlson/Texas/Glen and all admin buildings)	75		
Redlands				
Location #	Address	# of Units	<u>Yr1 2024-25</u>	<u>Yr2 2025-26</u>
1	26022 E. 9 th St., Highland, CA 92410 (includes 12 unit community)	12		
2	34192 Cherry Tree Lane, Yucaipa, CA 92399	Lot		
	Total	12		
Section 4 High Desert				
Barstow Community (RAD)				
Location #	Address	# of Units	<u>Yr1 2024-25</u>	<u>Yr2 2025-26</u>
1	421 W 7th Ave., Barstow, CA. 92311 (includes 74 unit community-7th St/Powell/Fredericks/Dolph/Melissa/Collins and all admin bldgs)	74		
Bighorn Community (RAD)				
Location #	Address	# of Units	<u>Yr1 2024-25</u>	<u>Yr2 2025-26</u>
1	900 Bghorn Ave., Barstow, CA. 92311 (includes 70 unit community -Bighorn/Lassen/Monterey/Zionand all admin bldgs)	70		
Williams Senior (RAD)				
Location #	Address	# of Units	<u>Yr1 2024-25</u>	<u>Yr2 2025-26</u>
1	710-780 Williams Street, Barstow, CA 92311 (includes 40 unit community/all admin bldgs)	40		
Yosemite Community (RAD)				
Location #	Address	# of Units	<u>Yr1 2024-25</u>	<u>Yr2 2025-26</u>
1	1900-1936 Yosemite Ct., Barstow, CA. 92311 (includes 18 unit community)	18		
	Total	18		
Other Services				

Location #	Address	# of Units	Yr1 <u>2024-25</u>	Yr2 <u>2025-26</u>
1	Quarterly service for - (includes -Waterman Gardens vacant lot/2 vacant buildings - San Bernardino, CA. 92411)	lot/2		
2	Quarterly weed abatement - Shop- 660 Orange St., San Bernardino, CA. 92411	1		
	Total	3		
Other Services				
1	Hourly Rate			
2	Emergency Rate			

1. The undersigned, having familiarized themselves with the local conditions affecting the cost of the work, and with the Specifications, if any thereto, hereby proposes to furnish all labor, materials, equipment and services required to provide such service(s) described in the Scope of Work in accordance therewith.

2. In submitting this proposal, it is understood that the right is reserved by the Housing Authority of the County of San Bernardino to reject any and all proposals. If written notice of the acceptance of this proposal is mailed, telegraphed, faxed, or delivered to the undersigned within thirty (30) days after the opening thereof, or at any time thereafter before this proposal is withdrawn, the undersigned agrees to a contract/agreement in the prescribed form and furnish any required insurance requirements within ten (10) days after the contract is presented to him for signature.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Date _____, 20____

(Company Name)

(Official Address)

(By)

(Title)

(Contractors State License Number)

(Telephone Number)

EXHIBIT C - REFERENCES

CURRENT CLIENT REFERENCES (REQUIRED) – RFP#PC1355– LANDSCAPE SERVICES

Submit this form with the BID, failure to do so is grounds for disqualification.

Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____

Bidder's Company Name _____

Legal Structure (corp./partner/proprietor) _____

Principle Office Address _____

City, ST, Zip _____

Phone Number & Fax Numbers _____

Email _____

Federal Employer Identification Number _____

Title of Person Authorized to Sign _____

Print Name of Person Authorized to Sign _____

Date Signed and Authorized Signature _____

EXHIBIT D – CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all Proposers submitting a response to this RFP:

1. The Proposer certifies, to the best of its knowledge and belief, that neither the Proposer nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or non-procurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Non-procurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Proposer shall provide immediate written notice to the HACSB Procurement and Contracts Supervisor if, at any time prior to award, the Proposer learns that this certification was erroneous when submitted or has become erroneous by reason of changes circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Proposer rendered an erroneous certification, in addition to other remedies available to the HACSB government, the HACSB Procurement and Contracts Supervisor may terminate the contract resulting from this solicitation for default.
5. Proposer affirms that it has no record of recent unsatisfactory performance with HACSB, during the past twenty-four (24) months at a minimum.

Printed Name of Representative:

Title:

Signature:

Date:

EXHIBIT E – STATE OF CALIFORNIA LABOR CODE



State of California LABOR CODE Section 1771.1

(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015.

(Added by Stats. 2014, Ch. 28, Sec. 63. (SB 854) Effective June 20, 2014.)

EXHIBIT F

Non-Collusion Affidavit of Prime Bidder/Subcontractor

State of California)
County of San Bernardino)

_____, being the first duly sworn, deposes and says that:

1. He/she is _____ of _____
(Owner, partner, etc.) (Company)

the Bidder that has submitted the attached Bid;

2. He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

3. Such Bid is genuine and is not a collusive or sham Bid;

4. Neither the said Bidder nor any of its officers, partners, owners, subcontractors, agents, representatives, employees or parties in interest including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix price or prices in the attached Bid or of any other Bidder, or to fix overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement and advantage against the Housing Authority of the County of San Bernardino or the owner of the property interested in the proposed contract;

5. No member of the Common Council, or other Officers of the Housing Authority of the County of San Bernardino, or any person in the employ of the Agency is directly or indirectly interested in the bid, or the work to which it relates, or in any portion of the profits thereof; and,

6. The price of prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest including this affiant;

7. I have read and understand the attached document entitles "Additional Eligibility Requirement of Contractors Who Bid on Community Development Funded Projects and Contracts", and affirms that the Bidder meets the Eligibility Requirements and agree(s) to comply with the terms and conditions contained as the date hereof;

8. I am/The Bidder is not indebted to the Housing Authority of the County of San Bernardino in any form or manner.

Signature: _____

Date: _____

Title: _____

Witness: _____

EXHIBIT G – SECTION 3 CERTIFICATION

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

MANDATORY—Proposer must submit the “Certification” form as to whether they “satisfy” or “do not satisfy” the Section 3 requirements. All bids received with the “Certification” form will be considered.

OPTIONAL—To be considered for the Section 3 Preference, you must also complete the “Documentation” section and provide the backup as required.

Section 3 Business Concern means a business where:

1. 51 percent or more is owned by Section 3 residents; or
2. 30 percent of the permanent full-time employees are currently Section 3 residents or were Section 3 residents when first hired (if within the past three years); or
3. The business commits in writing to subcontract over 25 percent of the total dollar amount of all subcontracts to be let to businesses that meet the requirements of paragraphs 1 and 2 of this definitions;

AND

The Business was formed in accordance with State law and is licensed under State, County, Municipal law to engage in the business activity for which it was formed.

Section 3 Compliance Requirements

- A. The Section 3 regulations provide that recipients, its contractors, and any subcontractors demonstrate compliance by employing Section 3 residents as 30% of the aggregate number of new hires.
- B. A vendor is required to hire only when a new hire is needed to perform the work. In the event that no new hires are needed, vendors must document that no new hires were made during the term of the contract.
- C. The Section 3 Regulations, at 24 CFR Part 135, require that in public housing programs, compliance efforts shall be directed to provide training and employment opportunities to residents.
- D. In situations where a new hire is needed, a vendor will not be required to hire persons who are not qualified. If a new hire is needed and a Section 3 resident is identified, that Section 3 resident will be required to submit evidence of Section 3 status to the recipient, contractor or subcontractor.

Bid/Proposal Compliance (Construction Projects)

As part of each bid or proposal submitted, the respondent must document their workforce by position. Such information will be re-verified at the commencement of the contract. The HACSB will periodically audit this information. Failure to comply shall result in the delay of payment.

Bid/Proposal Evaluation

Vendors who fail to complete the certification stating if they “satisfy” or “do not satisfy” the Section 3 requirements will be deemed non-responsive. This means that in the proposal or bid documents submitted to the HACSB, the Contractor's Certification must be completed and signed.

If requesting an exemption—include the applicable attachments and supporting documentation to support claims of compliance by hiring, contracting, or other economic opportunities.

After written notice from the HACSB specifying the defects in the Section 3 information, vendors will be given no more than 5 business days to complete the form and provide all required documents. Failure to respond within the 5 days will result in HACSB declaring the bidder or respondent non-responsive. The contract or bid will then be awarded to the next lowest bidder or to the respondent with the next highest score.

Section 3 Program Evaluation Preference

This RFP contains a preference for Section 3 business concerns in the award of Section 3 covered contracts as follows:

- (i) 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 and with the lowest responsive bid if that bid-
 - (A) IS WITHIN THE MAXIMUM TOTAL CONTRACT PRICE ESTABLISHED IN THE CONTRACTING PARTY'S BUDGET FOR THE SPECIFIC PROJECT FOR WHICH BIDS ARE BEING TAKEN, AND
 - (B) is no 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
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.

- (ii) IF NO RESPONSIVE BID BY A SECTION 3 BUSINESS CONCERN MEETS THE REQUIREMENTS, THE CONTRACT SHALL BE AWARDED TO A RESPONSIBLE BIDDER WITH THE LOWEST RESPONSIVE BID.

HUD Compliance and Monitoring

HUD monitors the performance of recipients and contractors. HUD examines employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 businesses. HUD provides technical assistance to recipients and contractors in order to obtain compliance with Section 3 requirements.

There is a complaint process. Section 3 residents and business concerns may file complaints if they think a violation of Section 3 requirements has occurred where a HUD-funded project is planned or underway. Complaints will be investigated; if appropriate, voluntary resolutions will

be sought. There are appeal rights to the Secretary. Section 3 residents and businesses may also seek judicial relief.

A Section 3 businesses or resident complaint about a violation of Section 3 requirements shall be made in writing to the local HUD FHEO Office or to:

The Assistant Secretary for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development 451 Seventh Street, SW, Room
5100
Washington, DC 20410-2000
1-800-669-9777
1-800-927-9276 (TTY)
www.hud.gov www.espanol.hud.gov

A written complaint should contain:

- A. Name and address of the person filing the complaint;
- B. Name and address of subject of complaint (HUD recipient or contractor);
- C. Description of acts or omissions in alleged violation of Section 3; and
- D. Statement of corrective actions sought.

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING
SECTION 3 PREFERENCE**

THIS PAGE MUST BE COMPLETED AND SUBMITTED WITH YOUR BID

Name of Business	
Address of Business	

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

I, (print name and title) _____

Hereby certify that the business entity known as (print business name)

(Please check one)

satisfies does not satisfy

One or more of the Section 3 Business Concerns as defined above.
--

If you check "does not satisfy" your proposal will not be deemed non-responsive.

OPTIONAL- to claim the Section 3 Preference-you must complete the "Documentation" section below and include any attachments
--

Authorizing Name and Signature

(Corporate Seal)

Attested by: _____

OPTIONAL (to claim the Section 3 Preference)

Documentation--

Attached is the following documentation as evidence of Section 3 status:

For Business claiming status as a Section 3 resident-owned enterprise:

- | | |
|---|---|
| <input type="checkbox"/> Copy of resident lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation in a public assistance program | <input type="checkbox"/> Other evidence |

For business entity as applicable:

- | | |
|--|---|
| <input type="checkbox"/> Copy of Articles of Incorporation | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate | <input type="checkbox"/> Partnership Agreement |
| <input type="checkbox"/> List of owners/stockholders and % ownership of each | <input type="checkbox"/> Corporation Annual Report |
| <input type="checkbox"/> Organization chart with names and titles and brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
| | <input type="checkbox"/> Additional documentation |

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- List of subcontracted Section 3 business(s) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- | | |
|---|---|
| <input type="checkbox"/> List of all current full-time employees | <input type="checkbox"/> List of employees claiming Section 3 status |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3 years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3 years from date of employment |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

Name of Business

Address of Business

(Corporate Seal)

Authorizing Name and Signature

Attested by: _____

EXHIBIT H – HUD Form 5369 B

Document on Following Page

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:]

EXHIBIT I – HUD Form 5369 C

Document on Following Page

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/offers 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:

EXHIBIT J – HUD Form 5370-C Section I & II

Document on Following Page

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

Public Reporting Burden for this collection of information is estimated to average 0.08 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$150,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban Development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

- proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
 - (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

-
- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
- (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (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 this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the 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 Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

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 there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member 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.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (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.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

Public Reporting Burden for this collection of information is estimated to average 0.08 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$100,000 – use Sections I and II.

Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
 - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the industry; and
 - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

in the classification under this Contract from the first day on which work is performed in the classification.

2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
 - (i) Name, address and Social Security Number;
 - (ii) Correct work classification or classifications;
 - (iii) Hourly rate or rates of monetary wages paid;
 - (iv) Rate or rates of any fringe benefits provided;
 - (v) Number of daily and weekly hours worked;
 - (vi) Gross wages earned;
 - (vii) Any deductions made; and
 - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
 - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice; A

- (ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
- (iii) A training/trainee program that has received prior approval by HUD.

- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
- (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
- (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
- (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
 - (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

6. Contract Work Hours and Safety Standards Act

The provisions of this paragraph 6 are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" includes watchmen and guards.

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to the District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

- (c) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the U.S. Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Contract or any federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

7. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this Section II and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the provisions contained in these clauses.

8. Non-Federal Prevailing Wage Rates

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under state law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

EXHIBIT K – HUD Form 4010

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EXHIBIT L – SAMPLE CONTRACT

Attached as a separate document in Planet Bids