

**A SPECIAL MEETING OF THE  
BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

TO BE HELD AT 715 EAST BRIER DRIVE  
SAN BERNARDINO, CALIFORNIA  
APRIL 16, 2024 AT 3:00 P.M.

**AGENDA**

**PUBLIC SESSION**

- 1) Call to Order and Roll Call
- 2) Additions or deletions to the agenda
- 3) General Public Comment - Any member of the public may address the Board of Commissioners on any matter not on the agenda that is within the subject matter jurisdiction of the Board. To make a comment on a specific agenda item, you may do so during the meeting or, alternatively, please submit your comments via email by 1:00 p.m. on the Tuesday of the Board meeting. Comments should be limited to 250 words or less. Please submit your comments via web at <https://hacsb.com/board-of-commissioners/> or email at [publiccomment@hacsb.com](mailto:publiccomment@hacsb.com). Your comments will be placed into the record at the meeting. Efforts will be made to read the comments into the record, but some comments may not be read due to time limitations.

**DISCUSSION CALENDAR**

(Public comment is available for each item on the discussion calendar)

- 4) Receive the Executive Director's Report for April 16, 2024.  
(Page 1)
- 5) Receive the board building presentation for April 16, 2024, a recap and update of the Housing Authority of the County of San Bernardino's legislative Capitol Hill visits in April.  
(Page 2)
- 6) 1 – Approve contract No. PC1355, effective May 1, 2024, for agencywide landscaping services with RP Landscape & Irrigation for a total contract amount not to exceed \$550,968 and Mariposa Landscapes, Inc for a total contract amount not to exceed \$461,066, for an aggregate total amount not to exceed \$1,012,034 for a two-year base period through April 30, 2026 with three single or multiple year option extensions through April 30, 2029.

2 – Authorize and direct the Executive Director to execute and deliver Contract No. PC1355 to RP Landscape & Irrigation and Mariposa Landscape, Inc, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Pages 3-107)

## CONSENT CALENDAR

### APPROVAL OF CONSENT ITEMS: # 7-9

- 7) Approve the meeting minutes for the regular meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on March 12, 2024.  
(Pages 108-112)
- 8) Approve and file Agency-wide Financial Statements through December 2023.  
(Pages 113-116)
- 9) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of January 2024.  
(Pages 117-125)
- 10) Individual Board member comments.
- 11) Adjourn

This agenda contains a brief description of each item of business to be considered at the meeting. In accordance with the Ralph M. Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting at the Housing Authority of the County of San Bernardino (HACSB) Building located at 715 East Brier Drive, San Bernardino, California, 92408. The agenda and its supporting documents can be viewed online at <http://www.hacsb.com>. However, the online agenda may not include all available supporting documents or the most current version of documents.

If you challenge any decision regarding any of the above agenda items in court, you may be limited to raising only those issues you or someone else raised during the public testimony period regarding that agenda item or in written correspondence delivered to the Board of Commissioners at, or prior to, the public meeting.

It is the intention of the HACSB to comply with the Americans with Disabilities Act (ADA). If you require special assistance, HACSB will attempt to accommodate you in every reasonable manner. Please contact Cynthia Robinson at (909) 890-5388 at least 48 hours prior to the meeting to inform us of your particular needs.

HACSB ofrece asistencia idiomática gratis. Para ayuda con este documento, por favor llámenos al (909) 890-0644.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**April 16, 2024**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Executive Director's Report for April 16, 2024

**RECOMMENDATION(S)**

Receive the Executive Director's Report for April 16, 2024.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

This item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

The Executive Director's report summarizes ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by the U.S. Department of Housing and Urban Development.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 3, 2024.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

April 16, 2024

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Board Building Presentation for April 16, 2024

**RECOMMENDATION(S)**

Receive the board building presentation for April 16, 2024, a recap and update of the Housing Authority of the County of San Bernardino's legislative Capitol Hill visits in April.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**Aspirational Statement #5: To create, build and utilize partnerships that provide opportunities and create a meaningful difference in the lives of the families that we serve, maximizing our resources by mobilizing the talents of our community partners.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

Per the U.S. Department of Housing and Urban Development's (HUD) Commissioner Lead the Way Training and Moving to Work designation responsibilities, board building is required to provide the Board of Commissioners with information regarding ongoing initiatives of HACSB's strategic plan, Moving to Work (MTW) activities, overall agency updates, as well as other initiatives federally regulated by HUD.

This month's board building presentation will include an update of HACSB's legislative Capitol Hill visits in April.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on, April 3, 2024.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

April 16, 2024

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Contract for Landscape Services with RP Landscape and Mariposa Landscapes, Inc

**RECOMMENDATION(S)**

1. Approve contract No. PC1355, effective May 1, 2024, for agencywide landscaping services with RP Landscape & Irrigation for a total contract amount not to exceed \$550,968 and Mariposa Landscapes, Inc for a total contract amount not to exceed \$461,066, for an aggregate total amount not to exceed \$1,012,034 for a two-year base period through April 30, 2026 with three single or multiple year option extensions through April 30, 2029.
2. Authorize and direct the Executive Director to execute and deliver Contract No. PC1355 to RP Landscape & Irrigation and Mariposa Landscape, Inc, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

The aggregate total amount is not expected to exceed \$1,012,034 for the two-year base period which is included within the Housing Authority of the County of San Bernardino's (HACSB) approved budget. Expenditures for Landscape Services are estimated at \$506,017 per year.

**BACKGROUND INFORMATION**

HACSB currently contracts with landscape vendors to provide grounds-keeping and irrigation maintenance at 39 affordable housing sites and four administrative offices located throughout San Bernardino County. Several of these sites have significant acreage that require robust landscape services. The contracts help maintain the landscaping services necessary at these sites. Based on the geographical size of the HACSB's internally managed property portfolio, two qualified vendors were selected.

**PROCUREMENT**

HACSB issued a Request for Proposal (RFP) PC1355 for Landscape Services on December 21, 2023, which resulted in the receipt of seven proposals. Outreach efforts included advertisements in four local newspapers, email invitations to 45 vendors, posting on our eBidding website, PlanetBids, and posting on the agency website. The proposals were evaluated based on the following criteria; Qualifications which include capability, experience and past performance, price, and Section 3 Compliance. The proposals were evaluated per the requirements of the RFP in which RP Landscape & Irrigation and Mariposa Landscapes, Inc were deemed reasonably priced, considered responsive, and determined qualified to provide this service to HACSB.

<b>Contractors Name</b>	<b>Location</b>	<b>Score</b>
RP Landscape	San Bernardino, CA	350
Mariposa Landscape	Irwindale, CA	342
Integrity Arborist and Ecoscape Inc	Riverside, CA	341
Lasting Images Landscape	Chino Hills, CA	301
Advanced Environmental Landscape	Alta Loma, CA	281
Priority Landscape Services	Brea, CA	279
O&R Landscape	Yucaipa, CA	252

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 03, 2024.

**THIS CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE RELATED SERVICES AGREEMENT (NON-CONSTRUCTION)** (“Agreement”) (PC1355) is made as of the **1<sup>st</sup> day of May 2024** (“Effective Date”) by and between **RP LANDSCAPE & IRRIGATION**. (“Contractor”), a **Sole Proprietor** and the Housing Authority of the County of San Bernardino, a California public entity (“HACSB”).

#### **RECITALS**

**WHEREAS**, HACSB is a public entity in San Bernardino County, State of California, committed to provide affordable and safe public housing for low and moderate income families; and

**WHEREAS**, Contractor has offered to provide certain services to HACSB, and HACSB wishes to retain Contractor for the provision of such services.

#### **OPERATIVE PROVISIONS**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Contractor and HACSB hereby agree as follows:

**ARTICLE 1. Statement of Work.** Contractor shall furnish all labor, materials, tools, equipment, and supervision to perform all work required in the Statement of Work set forth on Exhibit “A”, attached hereto and incorporated herein by reference (“Work”). In connection with its performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined).

**ARTICLE 2. Contract Documents.** This Agreement incorporates by reference all of the following documents (“Contract Documents”):

1. General Conditions for Non-Construction Contracts Section I – (with or without Maintenance Work) (Form HUD 5370), attached hereto as Exhibit “B” and incorporated herein by reference.
2. Additional General Provisions, attached hereto as Exhibit “C” and incorporated herein by reference (“Additional Provisions”).
3. Federal Labor Standards Provisions (Form HUD 4010), attached hereto as Exhibit “D” and incorporated herein.
4. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by reference. This Agreement is funded by the U. S. Department of Housing and Urban Development, and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>. For laws the County of San Bernardino, go to <http://www.sblawlibrary.org>.

**ARTICLE 3 Term; Time of Completion.** Contractor shall commence work under this Agreement for a **two (2) year base period** beginning on **May 1, 2024** and expiring on **April 30, 2026** unless for any reason funds which have been appropriated for the provision of these services are no longer available, or until such time as terminated per the terms of the Agreement in accordance with contract provisions in Article 19 Contractor shall not commence work prior to the date of issuance by HACSB of a work authorization in the form set forth on Exhibit “E”, attached hereto and incorporated herein by reference (“Work Authorization”). **HACSB shall have the option to extend the Agreement for up to an additional three single year options.** The optional years shall be exercised by written amendments executed by each party with board approval for additional funding on option years if needed. Option years will begin on or about **May 1, 2026** and expire no later than **April 30, 2029**. Following issuance of a Work Authorization, Contractor shall timely complete the Work in accordance with the schedule requirements specified in Exhibit “A”, and within the term of this Agreement.

**ARTICLE 4. Price.** Unless otherwise specified in the Statement of Work, HACSB agrees to pay Contractor a not-to-exceed amount of **\$550,968.00** for the provision of work per the fee schedule **for the two (2) year base contract period.** Details defined in Exhibit A – Scope of Services – Fee Schedule. Price as set forth herein, is in consideration for and provides full and complete compensation for the Work and the performance by Contractor of all of its obligations hereunder. Terms are defined in the Additional Provisions and includes a guarantee of task completion.

**ARTICLE 5. Performance of Work.** Contractor shall perform its duties on premises approved by HACSB, during HACSB's regular workdays and normal work hours and warrants that it shall perform the Work in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Contractor acknowledges that HACSB has the right to review the Work performed by Contractor and may, in its discretion, reject the Work, or any part thereof, as set forth in the Additional Provisions. In the event HACSB rejects any or all of the Work, at HACSB's election: (a) Contractor shall promptly correct any such deficiencies in the Work, or (b) the deficient Work shall be stricken from this Agreement and Contractor shall not be paid for such portion of the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any employee of Contractor or its subcontractors who is determined by HACSB to be uncooperative, incompetent, a threat to the adequate or timely completion of the Work, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Work in a manner acceptable to HACSB, shall be promptly removed from the Work by the Contractor and shall not be re-employed to perform any of the Work under this Agreement.

**ARTICLE 6. HACSB's Right to Stop Work.** HACSB has the right to require Contractor to stop or suspend Work pursuant to the "Stop Work" provisions of the Additional Provisions.

**ARTICLE 7. No Conflicts.** HACSB acknowledges that Contractor has other business and personal interests, separate and apart from the services contemplated by this Agreement, and nothing in this Agreement is intended to preclude Contractor from devoting time and attention to such business and personal interests. HACSB further acknowledges that Contractor has the right to accept other engagements as long as said engagements do not represent a conflict of interest with respect to the Work or the obligations of Contractor to HACSB pursuant to this Agreement. In connection with Contractor's performance of the Work hereunder, Contractor represents that there exists no actual, potential or appearance of conflict arising out of Contractor's business and financial interests.

**ARTICLE 8. Limit of Engagement.** This Agreement does not and shall not be construed to create any partnership or agency whatsoever. Contractor shall not be deemed to be a partner, joint ventures, agent or legal representative of HACSB for any purpose, nor shall Consultant have any authority or power to act for, or to undertake any obligation or responsibility on behalf of, HACSB or corporations affiliated with HACSB, other than as expressly herein provided. HACSB retains Contractor on an independent contractor basis and Contractor is not an employee of HACSB. Any additional personnel performing Work under this Agreement on behalf of Contractor shall not be employees of HACSB and shall at all times be under Contractor's exclusive direction and control.

**ARTICLE 9. Responsibilities of HACSB.** If information, data, or documentation necessary to facilitate Contractor's performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Contractor. It is Contractor's responsibility to determine if any such information is necessary in order to perform its obligations hereunder and to request such information from HACSB in a sufficient amount of time in order for Contractor to perform the Work hereunder.



**ARTICLE 10. Additional Work.**

- a. In the event that the parties mutually agree that additional and further work beyond that specified in the Statement of Work (“Additional Work”) is required to be performed by Contractor, such Additional Work shall be memorialized in a Work Authorization executed by HACSB and Contractor. The Work Authorization shall include and specifically identify the types of services required to perform as part of the Additional Work, all significant material to be delivered to HACSB, the time schedule for completion of the Additional Work, and the price for such Additional Work.
- b. Nothing herein shall obligate HACSB to utilize Contractor to perform the Additional Work or in any way limit HACSB’s rights to utilize third parties to perform or assist in performing the Additional Work. In no event shall Contractor commence performance of the Additional Work until it has received written consent executed by a duly authorized representative of HACSB.
- c. In the event that HACSB provides a Work Authorization for Additional Work, all of the terms and conditions of this Agreement shall apply to the performance of such Additional Work.

**ARTICLE 11. Contractor’s Obligation to Stop Work.** Personnel resources will not be expended (at a cost to HACSB) on task accomplishment in excess of the schedule requirements set forth in “Exhibit A” unless the procedure below is followed:

- a. If, in the performance of the Work, Contractor determines that the Work to be performed under this Agreement cannot be accomplished within the estimated work hours, Contractor will immediately notify HACSB in writing of Contractor's estimate of the work hours which will be required to complete the Work. Upon receipt of such notification, HACSB may:
  - i. Authorize Contractor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the Work Authorization (such an authorization not unreasonably to be withheld); or
  - ii. Terminate this Agreement; or
  - iii. Alter the scope of the Work in order to define tasks that can be accomplished within the remaining estimated work hours.
- b. HACSB will notify Contractor in writing of its election within seven (7) calendar days after receipt of Contractor's notification. If notice of the election is given to proceed, Contractor may expend the estimated additional work hours or services, as memorialized in a Work Authorization signed by Contractor and HACSB. In the event that HACSB fails to notify Contractor within such seven (7) calendar day period, Contractor shall provide a second notice to HACSB requesting a determination. Contractor shall not proceed with the Work until such time as HACSB has made an election as to how it wishes to proceed, and a Work Authorization has been approved.

**ARTICLE 12. Invoicing and Payment for Services.** During the execution of each Milestone (as set forth in the Statement of Work) which involves the delivery to HACSB of identified Deliverables (as defined in the Statement of Work), Contractor may submit periodically to HACSB invoices reflecting a pro-rata cost of the Milestones, determined on the basis of the lesser of either:

- a. The number of Deliverables provided to HACSB divided by the total number of Deliverables required to be delivered to HACSB, less a ten percent (10%) withhold, less any amounts previously invoiced; or

- b. The number of workhours expended by Contractor in the performance of the Work divided by the number of work hours scheduled for the Work, less a ten percent (10%) withhold, less any amounts previously invoiced; provided that the Statement of Work may specify a withhold of more than ten percent (10%).
- c. For those Milestones which do not involve delivery to HACSB of identified Deliverables, but which are of a continuing nature, Contractor may submit invoices reflecting a pro-rata cost of the Milestone, less a ten percent (10%) withhold, less any amount previously invoiced. Actual progress payment amounts for such Milestones must be based on at least equivalent services rendered, and to the extent practicable, will be keyed to clearly identifiable stages of progress as reflected in written reports submitted with the invoices.
- d. Upon completion of a Milestone in accordance with the acceptance criteria set forth herein, the full charge for such Milestone, less amounts previously invoiced to HACSB, may be submitted for payment.
- e. In the event that Additional Work is performed pursuant to a Work Authorization, such Additional Work shall be paid by HACSB according to the same procedure set forth above with respect to the Work, unless a different method for payment is specified in such Work Authorization.
- f. Invoices prepared in accordance with this provision will not be submitted more frequently than monthly to HACSB.
- g. In the aggregate, invoices reflecting progress payments will not exceed ninety percent (90%) of the Agreement Price, with the balance to be invoiced upon completion of the Agreement, in accordance with the acceptance criteria set forth herein.
- h. No charge for transportation, delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Statement of Work or Work Authorization.

**ARTICLE 13. Return of HACSB Property.** All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Contractor's notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the Work, or upon the earlier termination of this Agreement. Contractor hereby waives and assigns to HACSB all intellectual property or common law rights Contractor may develop in the Work. Contractor shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

**ARTICLE 14. Confidential Information.** HACSB agrees to make available to Contractor information that may be needed to perform the Work. Such information may include information HACSB considers to be confidential. For purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Contractor shall be considered to be Confidential Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Contractor shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Contractor and who are specifically authorized by Contractor to perform the Work contemplated in this Agreement.

**ARTICLE 15. Indemnity; Hold Harmless.** Contractor agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the performance of the Work, the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Contractor shall reimburse HACSB for any expenditures, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Contractor shall defend any such suits at the sole cost and expense of Contractor with counsel selected by HACSB. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against HACSB or its officers, employees, and agents in any such suit, action, or other legal proceeding.

**ARTICLE 16. Compliance with Contract Documents.** Contractor shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control. Contractor shall also comply with all agreements, representations, warranties, covenants, and certifications of Contractor made in connection with the procurement of this Agreement, provided that in the case of a conflict between the foregoing and the Contract Documents and this Agreement, the Contract Documents and this Agreement shall control.

**ARTICLE 17. Assignment.** Neither the Agreement, nor any part thereof, nor moneys due or to become due there under may be assigned by Contractor without the prior written approval of HACSB. This Agreement shall be binding on the successors and assigns of the parties.

**ARTICLE 18. Rights and Remedies of HACSB for Default.**

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

- a. In addition to any other rights and remedies HACSB may have, HACSB may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.
- b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by HACSB in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.
- c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor, therefore.

**ARTICLE 19. Termination.** In addition to the rights of Termination for Convenience of HACSB and Termination for Default set forth in the Contract Documents, HACSB may terminate this Agreement if Contractor should file a bankruptcy petition and/or be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency (as referenced in HUD Form 5370-C section 1 page 1). HACSB may serve written notice upon Contractor of its intention to terminate the Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Contractor, and any such surety shall have the right to take over and perform Contractor's obligations pursuant to this Agreement; provided, however, that if such surety does not

provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Contractor as may be on the site of the Work and necessary for the performance of the Work.

**ARTICLE 20. No Waiver.** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

**ARTICLE 21. Modification.** This written Agreement may not be later modified except by a further writing signed by HACSB and Contractor and no term of this Agreement may be waived, except by writing signed by the party waiving the benefit of such term. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

**ARTICLE 22. Notices.** All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested. *All notices sent pursuant to this Agreement shall be addressed as follows:*

**If to HACSB:**

Angie Lardapide, Procurement  
Housing Authority of the County of San Bernardino  
715 E. Brier Drive  
San Bernardino, CA 92408-2841  
[alardapide@hacsb.com](mailto:alardapide@hacsb.com)

**If to Contractor:**

Roy Perez, Owner  
RP Landscape & Irrigation  
275 South G Street  
San Bernardino, CA 91701  
[rplandscapeinc@aol.com](mailto:rplandscapeinc@aol.com)

Notices will be deemed effective upon receipt or rejection only.

**ARTICLE 23. Complete Agreement.** This written Agreement is the final, complete and exclusive statement and expression of the Agreement between HACSB and Contractor and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

**ARTICLE 24. Applicable Law/Venue.** This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

**ARTICLE 25. Severability; Headings.** If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

**ARTICLE 26. Interpretation.** Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

**ARTICLE 27. Counterparts.** This Agreement may be executed in multiple counterparts, and when so executed by each of the parties hereto shall constitute a single agreement binding upon all of the parties hereto.

**ARTICLE 28. Eight-Hour Law.** Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"). Contractor shall forfeit to HACSB as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any subcontractor under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Contractor or the Work are not subject to the Eight-Hour Law.

**ARTICLE 29. Subcontracting.** Contractor shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without prior written approval of HACSB. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**ARTICLE 30. Attorney's Fees.** If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of such actions.

**ARTICLE 31. Survival.** All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

**ARTICLE 32. No Third Party Beneficiaries.** Except as expressly stated herein or in the Contract Documents, there are no intended third party beneficiaries of any right or obligation assumed by the parties.

**[END – SIGNATURES ON NEXT PAGE]**

**SIGNATURE PAGE TO  
CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE RELATED SERVICES AGREEMENT  
(NON-CONSTRUCTION)  
PC1355 – Landscape Services**

**IN WITNESS WHEREOF**, HACSB and Contractor have entered into this Agreement as of the Effective

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

**RP Landscape & Irrigation**

By: \_\_\_\_\_ (Affix seal if a corporation)

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

Its: \_\_\_\_\_

**CERTIFICATE OF CORPORATE AUTHORITY**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Contractor herein; that \_\_\_\_\_ who signed this Agreement on behalf of Contractor, was then \_\_\_\_\_ of said corporation; that said Contract was duly signed for and in behalf of said corporation and its governing body and is within the scope of its corporate powers.

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

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

Its: \_\_\_\_\_

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

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

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

Name: Maria Razo

Its: Executive Director

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

## Exhibit A – 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](http://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:

Yucaipa Crest (Includes Admin Office)	12385 6 <sup>th</sup> St., #101-923	Yucaipa, CA	45 units	Public	Residential
Yucaipa Terrace (Includes Admin office)	12435 6 <sup>th</sup> St., #101-1005	Yucaipa, CA	51 units		Residential
Chino RAD (Includes Admin office/shop)	13088 Monte Vista	Chino, CA	50 units		Residential
Redlands RAD (Includes Admin offices)	803 W Brockton Avenue	Redlands, CA	75 units		Residential
Mt Vernon Manor RAD (Includes Admin offices)	539 E B Street	Colton, CA.	40 units		Residential
Colton RAD (Includes Admin Offices)	772 Pine St.	Colton, CA	85 units		Residential
Upland RAD (Includes Admin Offices)	1200 North Campus Ave	Upland, CA	98 units		Residential
Ontario Office	424 North Lemon Ave	Ontario, CA	Building		Non-Residential

### Scope of Services – Monthly Fee Schedule:

Section 1 West County				Rev 11/2023
<b>Ontario Office</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	Once a month service - 424 N. Lemon Ave., Ontario, CA 91764	N/A	\$3,600.00	\$3,780.00
<b>Chino Community (RAD)</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	13088 Monte Vista Ave., Chino, CA. 91710 (includes 50 unit community-Monte Vista/Granada/Alessandro/Carrillo/C Street and / all admin bldgs and maintenance shop)	50	\$47,880.00	\$50,274.00
<b>Upland Community (RAD)</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	1200 N. Campus, Upland, CA. 91789 (Los Olivos) (including 98 unit community- Campus/San Ysidro/Guadalupe/Myrtle and all admin buildings)	98	\$74,400.00	\$78,120.00
<b>Colton</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	772 Pine St. Colton, CA 92324 (including 85 unit community- Ash/Berry/Pine/Kirk/Cedar Circle/Congress and all admin bldgs)	85	\$29,712.00	\$31,197.00
2	539 E. "B" Street, Colton, CA 92324 (including 40 unit community/all admin bldgs)	40	\$23,520.00	\$24,696.00
		<b>Total</b>	<b>\$53,232.00</b>	<b>\$55,893.00</b>
<b>Section 3 East County</b>				
<b>Yucaipa Crest</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	12385 6th St. #101-923, Yucaipa, CA. 92399	45	\$16,800.00	\$17,640.00
<b>Yucaipa Terrace</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	12435 6th St. #101-1005, Yucaipa, CA. 92399	51	\$16,800.00	\$17,640.00
<b>Redlands Community (RAD)</b>				
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26
1	803 W Brockton Ave., Redlands, CA. 92374 (includes 75 unit community-Brockton/Sun/Granada/Carlson/Texas/Glen and all admin buildings)	75	\$29,712.00	\$31,197.00
<b>Other Services</b>				
1	Hourly Rate		\$45.00	\$50.00
2	Emergency Rate		\$74.00	\$78.00

**Exhibit B**  
**GENERAL CONDITIONS FOR NON-CONSTRUCTION WORK**  
**(HUD – 5370-C)**

**Document on Following Page**

# 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. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour 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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**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 \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – 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

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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.

# 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. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour 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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**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 \$150,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **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/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub[contractor/seller] or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

## 17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

## 18. 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.

## 19. 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.

## 20. 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.

## 21. Liens

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

## 22. 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) 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
- (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

**Exhibit C**  
**Additional General Provisions**

**Document on Following Page**

## ADDITIONAL GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
  - a. **“Business Entity”** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
  - b. **“Contractor”** means the Business Entity with whom the Housing Authority of the County of San Bernardino enters into this Agreement. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.
  - c. **“Firm Price”** means the Agreement requires the delivery of products or services at a specific price, fixed at the time of the Agreement and not subject to any adjustment on the basis of Contractor’s cost experience in performing under the terms of the Agreement.
  - d. **“HACSB”** means the Housing Authority of the County of San Bernardino, its employees and authorized representatives, including without limitation any department, agency, or other unit of HACSB.
  - e. **“Non-routine maintenance”** means duties or tasks that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.
2. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and HACSB and agrees to indemnify HACSB against any loss, cost, damage or liability by reason of Contractor’s violation of this provision.
3. **CONTRACTOR’S POWER AND AUTHORITY:** Contractor warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and will hold HACSB harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this Agreement. Further, Contractor agrees that it will not enter into any arrangement with any third party which might abridge any rights of HACSB under this Agreement.
4. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Agreement.
  - a. Contractor must strictly follow Agreement requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. HACSB may permit use of an alternate carrier at no additional cost to HACSB with advance written authorization of HACSB.
  - b. If “prepay and add” is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by HACSB and a waiver is granted in writing and in advance of shipping.
  - c. On "F.O.B. Shipping Point" transactions, should any shipments under the Agreement be received by HACSB in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of HACSB, shall at Contractor’s own expense assist HACSB in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
5. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement.
6. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in the Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities

specified herein, HACSB shall not be required to make any payment for the excess goods, and may return them to Contractor, at Contractor's expense, or utilize any other rights available to HACSB at law or in equity.

7. **SUBSTITUTIONS:** Substitution of goods may not be tendered, without advance written consent of HACSB. Contractor shall not use any specification in lieu of those contained in the Agreement, without written consent of HACSB.

8. **INSPECTION, ACCEPTANCE AND REJECTION:**

- a. Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to HACSB covering goods and services under this Agreement and will tender to HACSB only those goods that have been inspected and found to conform to the requirements of this Agreement. Contractor will keep records evidencing inspections and their result, and will make these records available to HACSB during performance of the Work and for three years after final payment. Contractor shall permit HACSB to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Work.
- b. All goods may be subject to inspection and test by HACSB or its authorized representatives.
- c. Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HACSB. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by HACSB at destination, notwithstanding any payment or inspection at source.
- e. HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HACSB does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HACSB will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HACSB might have at law or by express reservation in this Agreement with respect to any nonconformity.

9. **SAMPLES:**

- a. Samples of items may be required by HACSB for inspection and specification testing and must be furnished free of expense to HACSB. The samples furnished must be identical in all respects to the products bid and/or specified in the Agreement.
- b. Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

10. **WARRANTY:** Unless otherwise specified, the warranties contained in this Agreement begin after acceptance has occurred.

- a. Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HACSB, free from defects in design. HACSB's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- b. All warranties, including special warranties specified elsewhere herein, shall inure to HACSB, its successors, assigns, customer agencies and users of the goods or services.

11. **SAFETY AND ACCIDENT PREVENTION:** In performing the Work under this Agreement on HACSB premises, Contractor shall conform to any specific safety requirements contained in the Agreement or as required by law or regulation. Contractor shall take any additional precautions as HACSB may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions hereof.

12. **ACCIDENT PREVENTION:** Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be

observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions issued by the Industrial Accident Commission of the State of California.

13. **INSURANCE:** Contractor shall not commence Work under this Agreement until all insurance required under this paragraph has been obtained and such insurance has been approved by HACSB, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish HACSB with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Any policy of insurance required of Contractor under this Agreement shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to HACSB of any pending change in the limits of liability or of any cancellation or modification of the policy. All insurance required hereunder shall be issued by a California admitted insurance carrier.

The insurance required to be carried by Contractor hereunder shall include:

- a. Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the entire term of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b. Commercial General Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the entire term of this Agreement in the amount of Two Million and No/100 Dollars (\$2,000,000.00) per occurrence and \$3,000,000 aggregate. Such coverage shall include, but shall not be limited to, protection against claims arising from, and damage to property resulting from, activities contemplated under this Agreement. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to HACSB and shall provide that notice must be given to HACSB at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement.

Broad form property damage endorsement must be attached. HACSB is to be named as an additional insured on any contracts of insurance under this paragraph b. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by HACSB. Contractor shall be named as an additional insured with respect to such general liability insurance policy.

- c. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile insurance for the period covered by the Contract in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit coverage. Contractor shall be named as an additional insured with respect to such automobile liability insurance policy.
- d. Worker's Compensation. A state approved Workers Compensation and Employers Liability Insurance policy providing benefits as required by law with employer's liability limits no less than One Million and No/100 Dollars (\$1,000,000) per accident or disease, which covers all employees of the Contractor and each and every contractor.

14. **FORCE MAJEURE:** Contractor shall be excused for performing the Work hereunder in the event that Contractor is unable to perform the Work for one of the following reasons:

- a. Acts of God or of the public enemy, and
- b. Acts of the federal, state or local government in either its sovereign or contractual capacity.

Such delay shall be for the period of time that Contractor is delayed from performing the Work as a direct result of one of the foregoing reasons. Contractor shall provide HACSB notice within three (3) days of any such force majeure event.

**15. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**

- a. Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HACSB, employees of HACSB, persons designated by HACSB for training, or any other person(s) other than agents or employees of Contractor, designated by HACSB for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at Contractor's site or at HACSB's place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.
- b. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during the Agreement.

**16. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. The State of California and other sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

**17. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the Agreement for work completed through the date of invoice. HACSB will pay properly submitted, undisputed invoices not more than thirty (30) days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

**18. TAXES:** HACSB will only pay for any state or local sales or use taxes on the services rendered or goods supplied to HACSB pursuant to this Agreement.

**19. NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.

**20. NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Agreement shall not be made without prior written approval of HACSB.

**21. PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**

- a. Contractor shall hold HACSB, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
- b. Contractor may be required to furnish a bond to HACSB against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c. Contractor, at its own expense, shall defend any action brought against HACSB to the extent that such action is based upon a claim that the goods or software supplied by Contractor or the operation of such goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against HACSB in any such action. Such defense and payment shall be conditioned on the following:
  - i. That Contractor shall be notified within a reasonable time in writing by HACSB of any notice of such claim; and,
  - ii. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, HACSB shall have the option to participate in such action at its own expense.
- d. Should the goods or software, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HACSB shall permit Contractor at its option and expense either to procure for HACSB the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by HACSB shall be prevented by injunction, Contractor agrees to take back such goods or software and make every reasonable effort to assist HACSB in procuring substitute goods or

software. If, in the sole opinion of HACSB, the return of such infringing goods or software makes the retention of other goods or software acquired from Contractor under this Agreement impractical, HACSB shall then have the option of terminating such Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such goods or software and refund any sums HACSB has paid Contractor.

- e. Contractor shall have no liability to HACSB under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
  - i. The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by Contractor; or,
  - ii. The operation of equipment furnished by Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
  - iii. The modification by HACSB of the equipment furnished hereunder or of the software; or
  - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- f. Contractor certifies that it has appropriate systems and controls in place to ensure that HACSB funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g. The foregoing states the entire liability of Contractor to HACSB with respect to infringement of patents, copyrights or trade secrets.

**22. STOP WORK:**

- a. HACSB may, at any time, by written Stop Work order ("Stop Work Order") to Contractor, require Contractor to stop all, or any part, of the Work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, HACSB shall either:
  - i. Cancel the Stop Work Order; or
  - ii. Terminate the Work covered by the Stop Work Order as provided for in the termination for default or the voluntary termination provision of this Agreement.
  - iii. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HACSB shall make an equitable adjustment in the delivery schedule, the price, or both, and the Agreement shall be modified, in writing, accordingly, if:
    - 1. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and
    - 2. Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if HACSB decides the facts justify the action, HACSB may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- b. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the provision entitled Voluntary Termination, HACSB shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- c. HACSB shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

**23. COVENANT AGAINST GRATUITIES:** Contractor warrants that it complies with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), and that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent

or representative of Contractor, to any officer or employee of HACSB with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, HACSB shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by HACSB in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of HACSB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

- 24. COMPLIANCE WITH DAVIS-BACON ACT:** For construction agreements in excess of \$2,000, Contractor certifies that it complies with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 3). Unless otherwise indicated in the Statement of Work, Contractors of HACSB are required, pursuant to 24 CFR 85.36(h)(5), to pay Davis-Bacon wage rates for all "construction contracts and related subcontracts in excess of \$2000," which means, for such jobs, the wage rates paid must be equal to or exceed the listed applicable Davis-Bacon wage rate. Compliance with this clause also means that Contractor may be subject to completing certain reports and to audits by HACSB and the Department of Housing and Urban Development. Such reports and information relating to compliance can be obtained at the Internet website: <http://www.gpo.gov/davisbacon/>. Contractor shall include the wage provisions of this clause in all subcontracts to perform work under this Agreement.

HACSB shall have the right to audit Contractor, at any time, in order to ensure compliance with the requirements of this Section. In connection therewith, Contractor agrees to maintain accurate books and records in connection with the Work, and all payments made or received by Contractor pursuant to this Agreement, and to provide such information to HACSB, within five (5) business days of any request by HACSB. In addition, Contractor shall provide, upon two (2) business days request, information to HACSB of each and every employee retained by Contractor in connection with the Work, and shall permit HACSB to interview any such employees, contractors or subcontractors. Contractor agrees that all maintenance laborers and mechanics employed by it in connection with the performance of the Work 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. 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 Contractor's payroll records accurately set forth the time spent in each classification in which the work is performed. The wage determination, including any additional classifications and wage rates approved by HUD shall be posted at all times by 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.

- 25. CALIFORNIA PREVAILING WAGE (IF AGREEMENT PRICE IS LESS THAN \$2,000):** In the event the Agreement Price is less than \$2,000, Contractor agrees to comply with all prevailing rate requirements of the California Labor Code. HACSB shall have the right to audit and inspect Contractor's books and records, and interview Contractor's employees, contractors and subcontractors, all according to the same provisions set forth in Section 26 above.

- 26. EQUAL EMPLOYMENT OPPORTUNITY:** For all construction agreements in excess of \$10,000, Contractor certifies its compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

- 27. NONDISCRIMINATION CLAUSE:**

a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.



- b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
- 28. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.
- 29. DRUG-FREE WORKPLACE CERTIFICATION:** Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
- i. the dangers of drug abuse in the workplace;
- ii. the person's or organization's policy of maintaining a drug-free workplace;
- iii. any available counseling, rehabilitation and employee assistance programs; and,
- iv. penalties that may be imposed upon employees for drug abuse violations.
- c. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting agreement:
- i. will receive a copy of the company's drug-free policy statement; and,
- ii. will agree to abide by the terms of the company's statement as a condition of employment on the agreement.
- 30. RECYCLING:** Contractor shall certify in writing under penalty of perjury, compliance with Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to HACSB regardless of whether the product meets the requirements of Section 12209.
- 31. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** For agreements in excess of \$2,000, and in excess of \$2500 for other agreements which involve the employment of mechanics or laborers, Contractor certifies that it complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
- 32. CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:
- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State of California and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 33. ELECTRONIC WASTE RECYCLING ACT OF 2003:** Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 34. ENVIRONMENTAL REGULATIONS:** For agreements in excess of \$100,000, Contractor certifies that it complies with the requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (3 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).

35. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise HACSB of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
36. **DOMESTIC PARTNERS:** For agreements over \$100,000 executed or amended after January 1, 2007, Contractor certifies that Contractor is in compliance with Public Contract Code Section 10295.3.

**Exhibit D**  
**Federal Labor Standards Provisions (HUD 4010)**

**Document on Following Page**

**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.

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**(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 E**

### **Work Authorization**

**Schedule Dates:**

Start Date: May 1, 2024

Completion Date: April 30, 2026

**Total Contract Cost: \$550,968.00 and per Fee Schedule Located in Exhibit A**

Schedule Requirements – Statement of Work (“Exhibit A”)

General Conditions for Non-construction work (“Exhibit B”)

Additional General Provisions (“Exhibit C”)

Federal Labor Standards Provisions (HUD 4010) (Exhibit D)

Work Authorization (“Exhibit E”)

**THIS CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE RELATED SERVICES AGREEMENT (NON-CONSTRUCTION)** (“Agreement”) (PC1355) is made as of the **1<sup>st</sup> day of May 2024** (“Effective Date”) by and between **Mariposa Landscapes, Inc** (“Contractor”), a California Stock Corporation and the Housing Authority of the County of San Bernardino, a California public entity (“HACSB”).

#### RECITALS

**WHEREAS**, HACSB is a public entity in San Bernardino County, State of California, committed to provide affordable and safe public housing for low and moderate income families; and

**WHEREAS**, Contractor has offered to provide certain services to HACSB, and HACSB wishes to retain Contractor for the provision of such services.

#### OPERATIVE PROVISIONS

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Contractor and HACSB hereby agree as follows:

**ARTICLE 1. Statement of Work.** Contractor shall furnish all labor, materials, tools, equipment, and supervision to perform all work required in the Statement of Work set forth on Exhibit “A”, attached hereto and incorporated herein by reference (“Work”). In connection with its performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined).

**ARTICLE 2. Contract Documents.** This Agreement incorporates by reference all of the following documents (“Contract Documents”):

1. General Conditions for Non-Construction Contracts Section I – (with or without Maintenance Work) (Form HUD 5370), attached hereto as Exhibit “B” and incorporated herein by reference.
2. Additional General Provisions, attached hereto as Exhibit “C” and incorporated herein by reference (“Additional Provisions”).
3. Federal Labor Standards Provisions (Form HUD 410), attached hereto as Exhibit “D” and incorporated herein.
4. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by reference. This Agreement is funded by the U. S. Department of Housing and Urban Development, and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>. For laws the County of San Bernardino, go to <http://www.sblawlibrary.org>.

**ARTICLE 3 Term; Time of Completion.** Contractor shall commence work under this Agreement for a **two (2) year base period** beginning on **May 1, 2024** and expiring on **April 30, 2026** unless for any reason funds which have been appropriated for the provision of these services are no longer available, or until such time as terminated per the terms of the Agreement in accordance with contract provisions in Article 19 Contractor shall not commence work prior to the date of issuance by HACSB of a work authorization in the form set forth on Exhibit “E”, attached hereto and incorporated herein by reference (“Work Authorization”). **HACSB shall have the option to extend the Agreement for up to an additional three single year options.** The optional years shall be exercised by written amendments executed by each party with board approval for additional funding on option years if needed. Option years will begin on or about **May 1, 2026** and expire no later than **April 30, 2029**. Following issuance of a Work Authorization, Contractor shall timely complete the Work in accordance with the schedule requirements specified in Exhibit “A”, and within the term of this Agreement.

**ARTICLE 4. Price.** Unless otherwise specified in the Statement of Work, HACSB agrees to pay Contractor a not-to-exceed amount of **\$461,066.00** for the provision of work per the fee schedule **for the two (2) year base contract period.** Details defined in Exhibit A – Scope of Services – Fee Schedule. Price as set forth herein, is in consideration for and provides full and complete compensation for the Work and the performance by Contractor of all of its obligations hereunder. Terms are defined in the Additional Provisions and includes a guarantee of task completion.

**ARTICLE 5. Performance of Work.** Contractor shall perform its duties on premises approved by HACSB, during HACSB's regular workdays and normal work hours and warrants that it shall perform the Work in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Contractor acknowledges that HACSB has the right to review the Work performed by Contractor and may, in its discretion, reject the Work, or any part thereof, as set forth in the Additional Provisions. In the event HACSB rejects any or all of the Work, at HACSB's election: (a) Contractor shall promptly correct any such deficiencies in the Work, or (b) the deficient Work shall be stricken from this Agreement and Contractor shall not be paid for such portion of the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any employee of Contractor or its subcontractors who is determined by HACSB to be uncooperative, incompetent, a threat to the adequate or timely completion of the Work, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Work in a manner acceptable to HACSB, shall be promptly removed from the Work by the Contractor and shall not be re-employed to perform any of the Work under this Agreement.

**ARTICLE 6. HACSB's Right to Stop Work.** HACSB has the right to require Contractor to stop or suspend Work pursuant to the "Stop Work" provisions of the Additional Provisions.

**ARTICLE 7. No Conflicts.** HACSB acknowledges that Contractor has other business and personal interests, separate and apart from the services contemplated by this Agreement, and nothing in this Agreement is intended to preclude Contractor from devoting time and attention to such business and personal interests. HACSB further acknowledges that Contractor has the right to accept other engagements as long as said engagements do not represent a conflict of interest with respect to the Work or the obligations of Contractor to HACSB pursuant to this Agreement. In connection with Contractor's performance of the Work hereunder, Contractor represents that there exists no actual, potential or appearance of conflict arising out of Contractor's business and financial interests.

**ARTICLE 8. Limit of Engagement.** This Agreement does not and shall not be construed to create any partnership or agency whatsoever. Contractor shall not be deemed to be a partner, joint ventures, agent or legal representative of HACSB for any purpose, nor shall Consultant have any authority or power to act for, or to undertake any obligation or responsibility on behalf of, HACSB or corporations affiliated with HACSB, other than as expressly herein provided. HACSB retains Contractor on an independent contractor basis and Contractor is not an employee of HACSB. Any additional personnel performing Work under this Agreement on behalf of Contractor shall not be employees of HACSB and shall at all times be under Contractor's exclusive direction and control.

**ARTICLE 9. Responsibilities of HACSB.** If information, data, or documentation necessary to facilitate Contractor's performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Contractor. It is Contractor's responsibility to determine if any such information is necessary in order to perform its obligations hereunder and to request such information from HACSB in a sufficient amount of time in order for Contractor to perform the Work hereunder.

**ARTICLE 10. Additional Work.**

- a. In the event that the parties mutually agree that additional and further work beyond that specified in the Statement of Work ("Additional Work") is required to be performed by Contractor, such Additional Work shall be memorialized in a Work Authorization executed by HACSB and Contractor. The Work Authorization shall include and specifically identify the types of services required to perform as part of the Additional Work, all significant material to be delivered to HACSB, the time schedule for completion of the Additional Work, and the price for such Additional Work.
- b. Nothing herein shall obligate HACSB to utilize Contractor to perform the Additional Work or in any way limit HACSB's rights to utilize third parties to perform or assist in performing the Additional Work. In no event shall Contractor commence performance of the Additional Work until it has received written consent executed by a duly authorized representative of HACSB.
- c. In the event that HACSB provides a Work Authorization for Additional Work, all of the terms and conditions of this Agreement shall apply to the performance of such Additional Work.

**ARTICLE 11. Contractor's Obligation to Stop Work.** Personnel resources will not be expended (at a cost to HACSB) on task accomplishment in excess of the schedule requirements set forth in "Exhibit A" unless the procedure below is followed:

- a. If, in the performance of the Work, Contractor determines that the Work to be performed under this Agreement cannot be accomplished within the estimated work hours, Contractor will immediately notify HACSB in writing of Contractor's estimate of the work hours which will be required to complete the Work. Upon receipt of such notification, HACSB may:
  - i. Authorize Contractor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the Work Authorization (such an authorization not unreasonably to be withheld); or
  - ii. Terminate this Agreement; or
  - iii. Alter the scope of the Work in order to define tasks that can be accomplished within the remaining estimated work hours.
- b. HACSB will notify Contractor in writing of its election within seven (7) calendar days after receipt of Contractor's notification. If notice of the election is given to proceed, Contractor may expend the estimated additional work hours or services, as memorialized in a Work Authorization signed by Contractor and HACSB. In the event that HACSB fails to notify Contractor within such seven (7) calendar day period, Contractor shall provide a second notice to HACSB requesting a determination. Contractor shall not proceed with the Work until such time as HACSB has made an election as to how it wishes to proceed, and a Work Authorization has been approved.

**ARTICLE 12. Invoicing and Payment for Services.** During the execution of each Milestone (as set forth in the Statement of Work) which involves the delivery to HACSB of identified Deliverables (as defined in the Statement of Work), Contractor may submit periodically to HACSB invoices reflecting a pro-rata cost of the Milestones, determined on the basis of the lesser of either:

- a. The number of Deliverables provided to HACSB divided by the total number of Deliverables required to be delivered to HACSB, less a ten percent (10%) withhold, less any amounts previously invoiced; or

- b. The number of work-hours expended by Contractor in the performance of the Work divided by the number of work hours scheduled for the Work, less a ten percent (10%) withhold, less any amounts previously invoiced; provided that the Statement of Work may specify a withhold of more than ten percent (10%).
- c. For those Milestones which do not involve delivery to HACSB of identified Deliverables, but which are of a continuing nature, Contractor may submit invoices reflecting a pro-rata cost of the Milestone, less a ten percent (10%) withhold, less any amount previously invoiced. Actual progress payment amounts for such Milestones must be based on at least equivalent services rendered, and to the extent practicable, will be keyed to clearly identifiable stages of progress as reflected in written reports submitted with the invoices.
- d. Upon completion of a Milestone in accordance with the acceptance criteria set forth herein, the full charge for such Milestone, less amounts previously invoiced to HACSB, may be submitted for payment.
- e. In the event that Additional Work is performed pursuant to a Work Authorization, such Additional Work shall be paid by HACSB according to the same procedure set forth above with respect to the Work, unless a different method for payment is specified in such Work Authorization.
- f. Invoices prepared in accordance with this provision will not be submitted more frequently than monthly to HACSB.
- g. In the aggregate, invoices reflecting progress payments will not exceed ninety percent (90%) of the Agreement Price, with the balance to be invoiced upon completion of the Agreement, in accordance with the acceptance criteria set forth herein.
- h. No charge for transportation, delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Statement of Work or Work Authorization.

**ARTICLE 13. Return of HACSB Property.** All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Contractor's notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the Work, or upon the earlier termination of this Agreement. Contractor hereby waives and assigns to HACSB all intellectual property or common law rights Contractor may develop in the Work. Contractor shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

**ARTICLE 14. Confidential Information.** HACSB agrees to make available to Contractor information that may be needed to perform the Work. Such information may include information HACSB considers to be confidential. For purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Contractor shall be considered to be Confidential Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Contractor shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Contractor and who are specifically authorized by Contractor to perform the Work contemplated in this Agreement.

**ARTICLE 15. Indemnity; Hold Harmless.** Contractor agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the performance of the Work, the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Contractor shall reimburse HACSB for any expenditures, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Contractor shall defend any such suits at the sole cost and expense of Contractor with counsel selected by HACSB. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against HACSB or its officers, employees, and agents in any such suit, action or other legal proceeding.

**ARTICLE 16. Compliance with Contract Documents.** Contractor shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control. Contractor shall also comply with all agreements, representations, warranties, covenants, and certifications of Contractor made in connection with the procurement of this Agreement, provided that in the case of a conflict between the foregoing and the Contract Documents and this Agreement, the Contract Documents and this Agreement shall control.

**ARTICLE 17. Assignment.** Neither the Agreement, nor any part thereof, nor moneys due or to become due there under may be assigned by Contractor without the prior written approval of HACSB. This Agreement shall be binding on the successors and assigns of the parties.

**ARTICLE 18. Rights and Remedies of HACSB for Default.**

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

- a. In addition to any other rights and remedies HACSB may have, HACSB may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.
- b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by HACSB in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.
- c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor therefore.

**ARTICLE 19. Termination.** In addition to the rights of Termination for Convenience of HACSB and Termination for Default set forth in the Contract Documents, HACSB may terminate this Agreement if Contractor should file a bankruptcy petition and/or be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency (as referenced in HUD Form 5370-C section 1 page 1). HACSB may serve written notice upon Contractor of its intention to terminate the Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Contractor, and any such surety shall have the right to take over and perform Contractor's obligations pursuant to this Agreement; provided, however, that if such surety does not

provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Contractor as may be on the site of the Work and necessary for the performance of the Work.

**ARTICLE 20. No Waiver.** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

**ARTICLE 21. Modification.** This written Agreement may not be later modified except by a further writing signed by HACSB and Contractor and no term of this Agreement may be waived, except by writing signed by the party waiving the benefit of such term. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

**ARTICLE 22. Notices.** All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested. *All notices sent pursuant to this Agreement shall be addressed as follows:*

**If to HACSB:**

Angie Lardapide, Procurement  
Housing Authority of the County of San Bernardino  
715 E. Brier Drive  
San Bernardino, CA 92408-2841  
[alardapide@hacsb.com](mailto:alardapide@hacsb.com)

**If to Contractor:**

Terry Noriega, President  
Mariposa Landscape, Inc.  
6232 Santos Diaz Street  
Irwindale, CA 91702  
[estimating@mariposa-ca.com](mailto:estimating@mariposa-ca.com)

Notices will be deemed effective upon receipt or rejection only.

**ARTICLE 23. Complete Agreement.** This written Agreement is the final, complete and exclusive statement and expression of the Agreement between HACSB and Contractor and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

**ARTICLE 24. Applicable Law/Venue.** This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

**ARTICLE 25. Severability; Headings.** If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

**ARTICLE 26. Interpretation.** Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

**ARTICLE 27. Counterparts.** This Agreement may be executed in multiple counterparts, and when so executed by each of the parties hereto shall constitute a single agreement binding upon all of the parties hereto.

**ARTICLE 28. Eight-Hour Law.** Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"). Contractor shall forfeit to HACSB as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any subcontractor under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Contractor or the Work are not subject to the Eight-Hour Law.

**ARTICLE 29. Subcontracting.** Contractor shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without prior written approval of HACSB. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**ARTICLE 30. Attorney's Fees.** If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of such actions.

**ARTICLE 31. Survival.** All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

**ARTICLE 32. No Third Party Beneficiaries.** Except as expressly stated herein or in the Contract Documents, there are no intended third party beneficiaries of any right or obligation assumed by the parties.

**[END – SIGNATURES ON NEXT PAGE]**



**SIGNATURE PAGE TO**  
**CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE RELATED SERVICES AGREEMENT**  
**(NON-CONSTRUCTION)**  
**PC1355 – Landscape Services**

**IN WITNESS WHEREOF**, HACSB and Contractor have entered into this Agreement as of the Effective

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

**Mariposa Landscape, Inc.**

By: \_\_\_\_\_ (Affix seal if a corporation)

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

Its: \_\_\_\_\_

**CERTIFICATE OF CORPORATE AUTHORITY**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Contractor herein; that \_\_\_\_\_ who signed this Agreement on behalf of Contractor, was then \_\_\_\_\_ of said corporation; that said Contract was duly signed for and in behalf of said corporation and its governing body and is within the scope of its corporate powers.

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

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

Its: \_\_\_\_\_

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

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

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

Name: Maria Razo

Its: Executive Director

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

## Exhibit A – 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 \$0.47. 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](http://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:



Maplewood Scattered Sites RAD	755-765 W 8 <sup>th</sup> St 740-756 W 7 <sup>th</sup> St 1315-1325 N Davidson St 630 & 632 N J Street 1297 & 1299 N Turrill Ave 1077 & 1079 W 11 <sup>th</sup> St 2165 W Mill Street	San Bernardino	34 units	Residential
Maplewood Homes RAD (Includes Admin Offices)	1738 West 9 <sup>th</sup> St.	San Bernardino	296 units	Residential
Redlands 9th St RAD	26022 W 9 <sup>th</sup> Street	Redlands, CA	12 units	Residential
Central Office	715 E. Brier Drive	San Bernardino, CA	Building	Non-Residential
Housing Programs Office	672 & 680 S Waterman Ave	San Bernardino, CA	Building	Non-Residential
Barstow RAD (Includes Admin/community room offices)	421 W 7 <sup>th</sup> Ave., 900 Bighorn Ave., 1900-1936 Yosemite Ct.	Barstow, CA	74 units 70 units 18 units	Residential
Williams Senior RAD (includes Admin Office/community)	710-780 Williams St	Barstow, CA	40 units	Residential
Waterman Gardens Vacant Property	421 Crestview Avenue	San Bernardino	Vacant Lot/2 vacant buildings	Non-Residential
Waterman Gardens Shop	660 Orange Street	San Bernardino	Building	Non-Residential

## Scope of Services – Monthly Fee Schedule:

Section 2 Central County					
<b>Maplewood Homes Community (RAD)</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
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	\$44,196.00	\$44,196.00	
		296	<b>\$44,196.00</b>	<b>\$44,196.00</b>	
<b>Maplewood Homes Scattered Sites (RAD)</b>					
1	755, 757, 759, 761, 763, 765 West 8 <sup>th</sup> St., San Bernardino, CA 92410	6	\$5,754.00	\$5,754.00	
2	740, 744, 748, 752, 754, 756 West 7 <sup>th</sup> St., San Bernardino, CA 92410	6	\$5,754.00	\$5,754.00	
3	1315 – 1325 N. Davidson Ave., San Bernardino, CA 92411	6	\$5,754.00	\$5,754.00	
4	630 & 632 N. "J" St., San Bernardino, CA 92410	2	\$1,918.00	\$1,918.00	
5	1297 & 1299 N. Turrill Ave., San Bernardino, CA 92411	2	\$1,918.00	\$1,918.00	
6	1077 & 1079 West 11 <sup>th</sup> St., San Bernardino, CA 92410	2	\$1,918.00	\$1,918.00	
7	2165 W. Mill St. #1-#10, San Bernardino, CA 92410	10	\$9,589.00	\$9,589.00	
		34	<b>\$32,605.00</b>	<b>\$32,605.00</b>	
<b>Housing Programs Office</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	672 South Waterman Ave., San Bernardino, CA 92408	N/A	\$12,228.00	\$12,228.00	
<b>Administration Office</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	715 E. Brier Drive, San Bernardino, CA 92408	N/A	\$18,336.00	\$18,336.00	
<b>Redlands</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	26022 E. 9 <sup>th</sup> St., Highland, CA 92410 (includes 12 unit community)	12	\$4,236.00	\$4,236.00	
2	34192 Cherry Tree Lane, Yucaipa, CA 92399	Lot	\$1,956.00	\$1,956.00	
		Total	<b>\$6,192.00</b>	<b>\$6,192.00</b>	
<b>Section 4 High Desert</b>					
<b>Barstow Community (RAD)</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	421 W 7th Ave., Barstow, CA, 92311 (includes 74 unit community- 7th St/Powell/Fredericks/Dolph/Melissa/Collins and all admin bldgs)	74	\$18,432.00	\$18,432.00	
<b>Bighorn Community (RAD)</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	900 Bighorn Ave., Barstow, CA, 92311 (includes 70 unit community -Bighorn/Lassen/Monterey/Zionand all admin bldgs)	70	\$25,188.00	\$25,188.00	
<b>Williams Senior (RAD)</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	710-780 Williams Street, Barstow, CA 92311 (includes 40 unit community/all admin bldgs)	40	\$15,972.00	\$15,972.00	
<b>Yosemite Community (RAD)</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	1900-1936 Yosemite Ct., Barstow, CA, 92311 ( includes 18 unit community)	18	\$26,628.00	\$26,628.00	
		Total	<b>\$26,628.00</b>	<b>\$26,628.00</b>	
<b>Other Services</b>					
Location #	Address	# of Units	Yr1 2024-25	Yr2 2025-26	
1	Quarterly service for - (includes -Waterman Gardens vacant lot/2 vacant buildings - San Bernardino, CA, 92411)		\$1,248.00	\$1,248.00	
2	Quarterly weed abatement - Shop- 660 Orange St., San Bernardino, CA, 92411	1	\$2,508.00	\$2,508.00	
		Total	<b>\$3,756.00</b>	<b>\$3,756.00</b>	
<b>Other Services</b>					
1	Hourly Rate		\$60.00	\$60.00	
2	Emergency Rate		\$105.00	\$105.00	

**Exhibit B**  
**GENERAL CONDITIONS FOR NON-CONSTRUCTION WORK**  
**(HUD – 5370-C)**

**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. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour 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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**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 \$150,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **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/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub[contractor/seller] or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

## 17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.



The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

## 18. 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.

## 19. 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.

## 20. 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.

## 21. Liens

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

## 22. 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) 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
- (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. 11/30/2023)

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**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 \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – 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

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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 C**  
**Additional General Provisions**

**Document on Following Page**

## ADDITIONAL GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
  - a. **“Business Entity”** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
  - b. **“Contractor”** means the Business Entity with whom the Housing Authority of the County of San Bernardino enters into this Agreement. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.
  - c. **“Firm Price”** means the Agreement requires the delivery of products or services at a specific price, fixed at the time of the Agreement and not subject to any adjustment on the basis of Contractor’s cost experience in performing under the terms of the Agreement.
  - d. **“HACSB”** means the Housing Authority of the County of San Bernardino, its employees and authorized representatives, including without limitation any department, agency, or other unit of HACSB.
  - e. **“Non-routine maintenance”** means duties or tasks that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.
2. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and HACSB and agrees to indemnify HACSB against any loss, cost, damage or liability by reason of Contractor’s violation of this provision.
3. **CONTRACTOR’S POWER AND AUTHORITY:** Contractor warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and will hold HACSB harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this Agreement. Further, Contractor agrees that it will not enter into any arrangement with any third party which might abridge any rights of HACSB under this Agreement.
4. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Agreement.
  - a. Contractor must strictly follow Agreement requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. HACSB may permit use of an alternate carrier at no additional cost to HACSB with advance written authorization of HACSB.
  - b. If “prepay and add” is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by HACSB and a waiver is granted in writing and in advance of shipping.
  - c. On "F.O.B. Shipping Point" transactions, should any shipments under the Agreement be received by HACSB in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of HACSB, shall at Contractor’s own expense assist HACSB in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
5. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement.
6. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in the Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities

specified herein, HACSB shall not be required to make any payment for the excess goods, and may return them to Contractor, at Contractor's expense, or utilize any other rights available to HACSB at law or in equity.

7. **SUBSTITUTIONS:** Substitution of goods may not be tendered, without advance written consent of HACSB. Contractor shall not use any specification in lieu of those contained in the Agreement, without written consent of HACSB.

8. **INSPECTION, ACCEPTANCE AND REJECTION:**

- a. Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to HACSB covering goods and services under this Agreement and will tender to HACSB only those goods that have been inspected and found to conform to the requirements of this Agreement. Contractor will keep records evidencing inspections and their result, and will make these records available to HACSB during performance of the Work and for three years after final payment. Contractor shall permit HACSB to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Work.
- b. All goods may be subject to inspection and test by HACSB or its authorized representatives.
- c. Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HACSB. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by HACSB at destination, notwithstanding any payment or inspection at source.
- e. HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HACSB does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HACSB will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HACSB might have at law or by express reservation in this Agreement with respect to any nonconformity.

9. **SAMPLES:**

- a. Samples of items may be required by HACSB for inspection and specification testing and must be furnished free of expense to HACSB. The samples furnished must be identical in all respects to the products bid and/or specified in the Agreement.
- b. Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

10. **WARRANTY:** Unless otherwise specified, the warranties contained in this Agreement begin after acceptance has occurred.

- a. Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HACSB, free from defects in design. HACSB's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- b. All warranties, including special warranties specified elsewhere herein, shall inure to HACSB, its successors, assigns, customer agencies and users of the goods or services.

11. **SAFETY AND ACCIDENT PREVENTION:** In performing the Work under this Agreement on HACSB premises, Contractor shall conform to any specific safety requirements contained in the Agreement or as required by law or regulation. Contractor shall take any additional precautions as HACSB may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions hereof.

12. **ACCIDENT PREVENTION:** Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be



observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions issued by the Industrial Accident Commission of the State of California.

13. **INSURANCE:** Contractor shall not commence Work under this Agreement until all insurance required under this paragraph has been obtained and such insurance has been approved by HACSB, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish HACSB with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Any policy of insurance required of Contractor under this Agreement shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to HACSB of any pending change in the limits of liability or of any cancellation or modification of the policy. All insurance required hereunder shall be issued by a California admitted insurance carrier.

The insurance required to be carried by Contractor hereunder shall include:

- a. Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the entire term of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b. Commercial General Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the entire term of this Agreement in the amount of Two Million and No/100 Dollars (\$2,000,000.00) per occurrence and \$3,000,000 aggregate. Such coverage shall include, but shall not be limited to, protection against claims arising from, and damage to property resulting from, activities contemplated under this Agreement. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to HACSB and shall provide that notice must be given to HACSB at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement.

Broad form property damage endorsement must be attached. HACSB is to be named as an additional insured on any contracts of insurance under this paragraph b. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by HACSB. Contractor shall be named as an additional insured with respect to such general liability insurance policy.

- c. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile insurance for the period covered by the Contract in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit coverage. Contractor shall be named as an additional insured with respect to such automobile liability insurance policy.
- d. Worker's Compensation. A state approved Workers Compensation and Employers Liability Insurance policy providing benefits as required by law with employer's liability limits no less than One Million and No/100 Dollars (\$1,000,000) per accident or disease, which covers all employees of the Contractor and each and every contractor.

14. **FORCE MAJEURE:** Contractor shall be excused for performing the Work hereunder in the event that Contractor is unable to perform the Work for one of the following reasons:

- a. Acts of God or of the public enemy, and
- b. Acts of the federal, state or local government in either its sovereign or contractual capacity.

Such delay shall be for the period of time that Contractor is delayed from performing the Work as a direct result of one of the foregoing reasons. Contractor shall provide HACSB notice within three (3) days of any such force majeure event.

**15. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**

- a. Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HACSB, employees of HACSB, persons designated by HACSB for training, or any other person(s) other than agents or employees of Contractor, designated by HACSB for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at Contractor's site or at HACSB's place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.
- b. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during the Agreement.

**16. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. The State of California and other sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

**17. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the Agreement for work completed through the date of invoice. HACSB will pay properly submitted, undisputed invoices not more than thirty (30) days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

**18. TAXES:** HACSB will only pay for any state or local sales or use taxes on the services rendered or goods supplied to HACSB pursuant to this Agreement.

**19. NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.

**20. NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Agreement shall not be made without prior written approval of HACSB.

**21. PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**

- a. Contractor shall hold HACSB, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
- b. Contractor may be required to furnish a bond to HACSB against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c. Contractor, at its own expense, shall defend any action brought against HACSB to the extent that such action is based upon a claim that the goods or software supplied by Contractor or the operation of such goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against HACSB in any such action. Such defense and payment shall be conditioned on the following:
  - i. That Contractor shall be notified within a reasonable time in writing by HACSB of any notice of such claim; and,
  - ii. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, HACSB shall have the option to participate in such action at its own expense.
- d. Should the goods or software, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HACSB shall permit Contractor at its option and expense either to procure for HACSB the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by HACSB shall be prevented by injunction, Contractor agrees to take back such goods or software and make every reasonable effort to assist HACSB in procuring substitute goods or

software. If, in the sole opinion of HACSB, the return of such infringing goods or software makes the retention of other goods or software acquired from Contractor under this Agreement impractical, HACSB shall then have the option of terminating such Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such goods or software and refund any sums HACSB has paid Contractor.

- e. Contractor shall have no liability to HACSB under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
  - i. The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by Contractor; or,
  - ii. The operation of equipment furnished by Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
  - iii. The modification by HACSB of the equipment furnished hereunder or of the software; or
  - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- f. Contractor certifies that it has appropriate systems and controls in place to ensure that HACSB funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g. The foregoing states the entire liability of Contractor to HACSB with respect to infringement of patents, copyrights or trade secrets.

**22. STOP WORK:**

- a. HACSB may, at any time, by written Stop Work order ("Stop Work Order") to Contractor, require Contractor to stop all, or any part, of the Work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, HACSB shall either:
  - i. Cancel the Stop Work Order; or
  - ii. Terminate the Work covered by the Stop Work Order as provided for in the termination for default or the voluntary termination provision of this Agreement.
  - iii. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HACSB shall make an equitable adjustment in the delivery schedule, the price, or both, and the Agreement shall be modified, in writing, accordingly, if:
    - 1. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and
    - 2. Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if HACSB decides the facts justify the action, HACSB may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- b. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the provision entitled Voluntary Termination, HACSB shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- c. HACSB shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

**23. COVENANT AGAINST GRATUITIES:** Contractor warrants that it complies with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), and that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent

or representative of Contractor, to any officer or employee of HACSB with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, HACSB shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by HACSB in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of HACSB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

- 24. COMPLIANCE WITH DAVIS-BACON ACT:** For construction agreements in excess of \$2,000, Contractor certifies that it complies with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 3). Unless otherwise indicated in the Statement of Work, Contractors of HACSB are required, pursuant to 24 CFR 85.36(h)(5), to pay Davis-Bacon wage rates for all "construction contracts and related subcontracts in excess of \$2000," which means, for such jobs, the wage rates paid must be equal to or exceed the listed applicable Davis-Bacon wage rate. Compliance with this clause also means that Contractor may be subject to completing certain reports and to audits by HACSB and the Department of Housing and Urban Development. Such reports and information relating to compliance can be obtained at the Internet website: <http://www.gpo.gov/davisbacon/>. Contractor shall include the wage provisions of this clause in all subcontracts to perform work under this Agreement.

HACSB shall have the right to audit Contractor, at any time, in order to ensure compliance with the requirements of this Section. In connection therewith, Contractor agrees to maintain accurate books and records in connection with the Work, and all payments made or received by Contractor pursuant to this Agreement, and to provide such information to HACSB, within five (5) business days of any request by HACSB. In addition, Contractor shall provide, upon two (2) business days request, information to HACSB of each and every employee retained by Contractor in connection with the Work, and shall permit HACSB to interview any such employees, contractors or subcontractors. Contractor agrees that all maintenance laborers and mechanics employed by it in connection with the performance of the Work 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. 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 Contractor's payroll records accurately set forth the time spent in each classification in which the work is performed. The wage determination, including any additional classifications and wage rates approved by HUD shall be posted at all times by 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.

- 25. CALIFORNIA PREVAILING WAGE (IF AGREEMENT PRICE IS LESS THAN \$2,000):** In the event the Agreement Price is less than \$2,000, Contractor agrees to comply with all prevailing rate requirements of the California Labor Code. HACSB shall have the right to audit and inspect Contractor's books and records, and interview Contractor's employees, contractors and subcontractors, all according to the same provisions set forth in Section 26 above.

- 26. EQUAL EMPLOYMENT OPPORTUNITY:** For all construction agreements in excess of \$10,000, Contractor certifies its compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

- 27. NONDISCRIMINATION CLAUSE:**

a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
- 28. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.
- 29. DRUG-FREE WORKPLACE CERTIFICATION:** Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
- i. the dangers of drug abuse in the workplace;
- ii. the person's or organization's policy of maintaining a drug-free workplace;
- iii. any available counseling, rehabilitation and employee assistance programs; and,
- iv. penalties that may be imposed upon employees for drug abuse violations.
- c. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting agreement:
- i. will receive a copy of the company's drug-free policy statement; and,
- ii. will agree to abide by the terms of the company's statement as a condition of employment on the agreement.
- 30. RECYCLING:** Contractor shall certify in writing under penalty of perjury, compliance with Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to HACSB regardless of whether the product meets the requirements of Section 12209.
- 31. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** For agreements in excess of \$2,000, and in excess of \$2500 for other agreements which involve the employment of mechanics or laborers, Contractor certifies that it complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
- 32. CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:
- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State of California and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 33. ELECTRONIC WASTE RECYCLING ACT OF 2003:** Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 34. ENVIRONMENTAL REGULATIONS:** For agreements in excess of \$100,000, Contractor certifies that it complies with the requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (3 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).

35. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise HACSB of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
36. **DOMESTIC PARTNERS:** For agreements over \$100,000 executed or amended after January 1, 2007, Contractor certifies that Contractor is in compliance with Public Contract Code Section 10295.3.

**Exhibit D**  
**Federal Labor Standards Provisions (HUD 4010)**

**Document on Following Page**

**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.

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**(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 E**

### **Work Authorization**

**Schedule Dates:**

Start Date: May 1, 2024

Completion Date: April 30, 2026

**Total Contract Cost: \$461,066.00 and per Fee Schedule Located in Exhibit A**

Schedule Requirements – Statement of Work (“Exhibit A”)

General Conditions for Non-construction work (“Exhibit B”)

Additional General Provisions (“Exhibit C”)

Federal Labor Standards Provisions (“Exhibit D”)

Work Authorization (“Exhibit E”)

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

April 16, 2024

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Meeting Minutes for Meeting Held on March 12, 2024

**RECOMMENDATION(S)**

Approve the meeting minutes for the regular meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on March 12, 2024.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there are no financial impacts associated with this item.

**BACKGROUND INFORMATION**

The HACSB Board of Commissioners (Board) Meeting took place on March 12, 2024, and attached are the meeting minutes for review and recommended approval by the Board.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on, April 3, 2024.

**MINUTES OF THE ANNUAL MEETING OF THE BOARD OF COMMISSIONERS OF  
THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO  
March 12, 2024**

The Board of Commissioners of the Housing Authority of the County of San Bernardino met in an annual meeting at the Administration Office, at 715 East Brier Drive, San Bernardino, California at 3:00 p.m. on March 12, 2024.

Details of the meeting discussion can be obtained through the recording of the Board of Commissioners meeting through a Public Records Request submitted in person or through the HACSB website: <https://hacsb.com/public-records-request/>

**1) Call to Order and Roll Call**

The meeting was called to order, and upon roll call, the following were present:

Chair Cooper  
Vice-Chair MacDuff  
Commissioner Johnson  
Commissioner Avila  
Commissioner Kim  
Commissioner Miller

Also in attendance were Rishad Mitha, Deputy Executive Director; Nicole Beydler, Director of Policy and Public Relations; Jesse Diaz, Director of Business Services; Angie Lardapide, Procurement and Contracts Supervisor; George Silva, Family Empowerment Services Manager; John Moore, Director of Development; Tony Chen, Project Manager; Justin Post, Management Analyst; Jennifer Dawson, Director of Administrative Services; Lucy Leslie, Director of Housing Communities; Kristin Maithonis, Director of Housing Services; and Claudia Hurtado, Executive Assistant.

Also present, Fred Galante, Legal Counsel to the Housing Authority.

**2) Additions or Deletions to the Agenda**

Chair Cooper called for additions or deletions to the March 12, 2024, agenda. There were none.

**3) General Public Comment**

Chair Cooper provided an opportunity for members of the public to address the Board of Commissioners. No members of the public spoke.

**4) Executive Director's Report**

The Executive Director's Report was requested.

Deputy Executive Director Mitha gave the Executive Director's Report.

Discussion amongst the Board of Commissioners took place regarding the Executive Director's Report for March 12, 2024.

**5) Board building presentation for March 12, 2024**

Discussion calendar item number 5, to receive the board presentation for March 12, 2024, an update of the Housing Authority of the County of San Bernardino’s legislative platform in preparation for Capitol Hill visits, was requested.

Director of Policy and Public Relations provided the Board with an update of the Housing Authority of the County of San Bernardino’s legislative platform in preparation for Capitol Hill visits.

Discussion amongst the Board of Commissioners took place regarding discussion calendar item number 5.

**6) Amended Conflict of Interest Code**

Discussion calendar item number 6, to adopt Resolution No. 195 approving of an amended Conflict of Interest Code pursuant to the Political Reform Act of 1974, was requested.

Deputy Executive Director Mitha explained the item.

Commissioner Johnson moved to approve discussion calendar item number 6, as recommended by staff and Commissioner Miller seconded the motion.

Upon roll call, the Ayes and Nays were as follows:

Ayes

Chair Cooper  
Vice-Chair MacDuff  
Commissioner Johnson  
Commissioner Avila  
Commissioner Kim  
Commissioner Miller

Nays

**7) Ownership Structure for 263 Affordable Housing Units**

Discussion calendar item number 7, to adopt Resolution No. 194 authorizing the Housing Authority of the County of San Bernardino to become a member of Scattered Affordable Portfolio LLC to assume 50% ownership of 263 affordable housing units, was requested.

Deputy Executive Director Mitha explained the item.

Commissioner Miller moved to approve discussion calendar item number 7, as recommended by staff, and Commissioner MacDuff duly seconded the motion.



Upon roll call, the Ayes and Nays were as follows:

Ayes

Chair Cooper  
Vice-Chair MacDuff  
Commissioner Johnson  
Commissioner Avila  
Commissioner Kim  
Commissioner Miller

Nays

**8) Contract Amendment with Renee Public Group for Grant Writing Services**

Discussion calendar item number 8, to 1) approve Amendment No.2 to contract PC1329, effective March 13, 2024, for grant writing services to Renne Public Policy Group increasing the current amount by \$75,000 for a total contract amount not to exceed \$150,000 through December 1, 2024, 2) authorize and direct the Executive Director to execute and deliver the contract amendment to RPPG and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Deputy Executive Director Mitha explained the item.

Discussion amongst the Board of Commissioners took place regarding discussion calendar item number 8.

Commissioner Johnson moved to approve discussion calendar item number 8, as recommended by staff and Commissioner Miller seconded the motion.

Upon roll call, the Ayes and Nays were as follows:

Ayes

Chair Cooper  
Vice-Chair MacDuff  
Commissioner Johnson  
Commissioner Avila  
Commissioner Kim  
Commissioner Miller

Nays

**9, 10, and 11) Consent Calendar**

Approval of the consent calendar including agenda item numbers 9-11 was requested.

Commissioner MacDuff moved to approve consent calendar agenda item numbers 9-11,

9) Approve the meeting minutes for the regular meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on February 13, 2024.

10) Approve and file Agency-wide Financial Statements through November 2023.

11) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of December 2023.

The motion was duly seconded by Commissioner Miller and upon roll call, the Ayes and Nays were as follows:

Ayes

Chair Cooper  
Vice-Chair MacDuff  
Commissioner Johnson  
Commissioner Avila  
Commissioner Kim  
Commissioner Miller

Nays

Chair Cooper provided an opportunity for individual board member comments. There were none.

There being no other business, Commissioner Johnson moved for the regular meeting of Tuesday, March 12, 2024, to be adjourned, and which motion was duly seconded by Commissioner Miller. There being no objection to the call for adjournment, the meeting was adjourned by unanimous consent at 4:12 p.m.

\_\_\_\_\_  
Beau Cooper, Chair

\_\_\_\_\_  
Cassie MacDuff, Vice Chair

\_\_\_\_\_  
Tim Johnson

\_\_\_\_\_  
David Avila

\_\_\_\_\_  
Sylvia Miller

\_\_\_\_\_  
Sungman Kim

Attest:

\_\_\_\_\_  
Secretary

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

April 16, 2024

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Agency-wide Financial Statements through December 2023

**RECOMMENDATION(S)**

Approve and file Agency-wide Financial Statements through December 2023.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

The Housing Authority of the County of San Bernardino's (HACSB) year-to-date agency-wide net loss through December 2023 for Federal Fiscal Year (FFY) 2023-24 is (\$2,627,069). The net loss is currently lower than the budgeted net loss of (\$2,558,160) with a variance of \$68,910.

The \$68,910 variance between the budgeted and the actual net income is due to the variance of gains and losses to the budget, such as:

- Depreciation expenses are not budgeted and amount to \$1,247,000.
- The Housing Choice Voucher Program (HCV) experienced a reduction in net income of \$300,000 when compared to the budgeted amounts. This was due to the following items:
  - An increase in Housing Assistance Payments (HAP) in the amount of \$2.2 million. This was mainly due to rising rents which increases the per unit costs (PUC). Additionally, the lease rate increased due to an increase in the number of voucher holders who have successfully leased-up with vouchers. Unlike the funding in the HCV program, HAP is not budgeted at a 100% lease rate. It is budgeted based on an estimated lease rate for the year, estimated available funding per federally approved appropriations, and on approved use of restricted HAP U.S. Department of Housing and Urban Development (HUD) held reserves.
  - \$1.9 million more in funding received from HUD. The monthly amount HACSB receives is based on HAP expenses in prior months and not based on the current month's HAP expense or the approved federal appropriations. This will cause a discrepancy between the current month's lease rate and the lease rate used to fund HACSB monthly. A reconciliation between the amount funded and the actual HAP expenses is performed at year-end by both the U.S. Department of Housing and Urban Development (HUD) and HACSB. The difference between the authorized funding amount and actual funding received is deducted from or

deposited into a restricted HUD Held Reserve (HHR) account which can be used for future eligible expenses, with HUD’s approval.

- The rising rent over the past few quarters has caused our per unit costs (PUC) to increase over the amount we are funded per unit (PUF) which is causing a decrease in our operating net income in the program.
- There is a decrease in tenant services expenses in the amount of \$780,000. This is budgeted evenly for the fiscal year, but the level of services provided can vary from month to month. We expect the total expenses at year end to be materially the same as the budgeted amount.
- Physical needs work is budgeted evenly throughout the fiscal year, but the actual work performed can vary. This has reflected a lower-than-expected expense when compared to the budgeted amount since this report only accounts for three months of the fiscal year. The amount of variance is \$750,000. This is reflected in the extraordinary maintenance expenses line. Examples of extraordinary maintenance expenses budgeted include asphalt repairs, concrete repairs, roofing work, and exterior painting. We expect that the actual expense at year end will be closer to the budgeted amount.
- Lower than anticipated costs in administrative and maintenance expenses in the amount of \$325,000 primarily due to lower than anticipated consulting and professional fees, computer hardware not purchased as well as lower administrative salary expenses due to vacant positions. Since this report only accounts for three months of the fiscal year, we expect these expenses will be incurred later in the year.
- There was a net decrease of \$350,000 in tenant income and other income. Most of the decrease was a reduction of \$950,000 in other income but there was an increase of \$600,000 in rental income. The increase in rental income is due to accruals that are recorded in the beginning of the fiscal year for accounting purposes. These adjustments will offset with adjustments throughout the year, and we expect that the actual rent income should be closer to the budgeted amount by the end of the year. The decrease in other income is due to pending residual receipt calculation from one of our non-profit affiliates. We expect this calculation to be completed once the affiliate’s annual audit is complete in April 2024.

The information provided is based on unaudited information. During the audit process, revenue and expenses are typically adjusted and we expect a material amount of expenses related to the pension and Other Post Employment Benefit (OPEB) plans to be recognized during this process. This will lead to a decrease in the operating net income. The audited financial report will be provided to the Board of Commissioners once the audit process has been completed. The audit process will be completed in late June 2025 for the prior fiscal year which is when the audited financial statements are submitted to HUD.

Financial Summary	FY 2024 YTD
Revenues	\$55,547,516
Expenses	\$(56,917,532)
Operating Net Income/(Loss)	\$(1,370,012)
Operating Transfers/Non-Operating Items	\$(1,257,057)
<b>Net Income/(Loss)</b>	<b>\$(2,627,069)</b>

**BACKGROUND INFORMATION**

HACSB administers multiple housing programs and is the largest provider of affordable housing in the County of San Bernardino. The FY 2024-25 budget and financial operations continue to support the vision and mission of HACSB and are in line with its Strategic Plan and Moving to Work Annual Plans. Overall, HACSB has demonstrated fiscal stability even through the challenges presented by delays in the federal budget process.

Despite ongoing challenges, we continue to focus on maintaining the agency's fiscal stability, customer service, innovation, best practices, partnerships that will assist our staff and families, and show a continued passion for our agency's mission.

Based on HUD's guidance to routinely present key information to HACSB's Board of Commissioners, HACSB is presenting the financial statements on a monthly basis.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, April 11, 2024.

## HACSB Budget Comparison

Period = Oct 2023-Dec 2023

	YTD Actual	YTD Budget	Variance	% Var	Annual
INCOME					
TENANT INCOME					
Total Rental Income	8,109,379	7,626,783	482,596	6.33	30,869,944
Total Other Tenant Income	248,381	128,729	119,652	92.95	511,667
NET TENANT INCOME	8,357,760	7,755,512	602,248	7.77	31,381,611
GRANT INCOME					
TOTAL GRANT INCOME	45,335,244	43,979,512	1,355,732	3.08	175,926,069
OTHER INCOME					
TOTAL OTHER INCOME	1,854,516	2,789,658	-935,142	-33.52	7,780,646
TOTAL INCOME	55,547,520	54,524,682	1,022,838	1.88	215,088,326
EXPENSES					
GRANT EXPENSES					
TOTAL GRANT EXPENSES	2,143,688	2,643,861	500,173	18.92	10,575,443
ADMINISTRATIVE					
Total Administrative Salaries	3,885,044	4,102,171	217,127	5.29	17,230,491
Total Legal Expense	151,080	141,290	-9,790	-6.93	564,845
Total Other Admin Expenses	1,846,989	2,059,836	212,847	10.33	8,080,900
Total Miscellaneous Admin Expenses	805,789	1,061,887	256,098	24.12	2,960,662
TOTAL ADMINISTRATIVE EXPENSES	6,688,902	7,365,185	676,282	9.18	28,836,897
TENANT SERVICES					
TOTAL TENANT SERVICES EXPENSES	700,280	1,480,841	780,561	52.71	2,459,644
UTILITIES					
TOTAL UTILITY EXPENSES	981,632	1,128,472	146,840	13.01	4,514,366
MAINTENANCE AND OPERATIONS					
Total General Maint Expense	928,471	859,213	-69,259	-8.06	3,535,851
Total Materials	456,768	229,146	-227,622	-99.33	916,270
Total Contract Costs	960,279	902,946	-57,332	-6.35	3,590,795
TOTAL MAINTENANCE EXPENSES	2,345,518	1,991,305	-354,213	-17.79	8,042,916
GENERAL EXPENSES					
TOTAL GENERAL EXPENSES	704,393	518,877	-185,516	-35.75	1,692,963
EXTRAORDINARY MAINTENANCE EXPENSES					
TOTAL EXTRAORDINARY MAINTENANCE EXPENSES	1,163,573	1,914,343	750,770	39.22	5,623,953
HOUSING ASSISTANCE PAYMENTS					
TOTAL HOUSING ASSISTANCE PAYMENTS	41,697,862	39,552,569	-2,145,292	-5.42	158,210,278
FINANCING EXPENSE					
TOTAL FINANCING EXPENSES	491,684	487,390	-4,294	-0.88	1,944,793
TOTAL OPERATING EXPENSES	56,917,532	57,082,842	165,310	0.29	221,901,253
<b>OPERATING NET INCOME</b>	<b>-1,370,012</b>	<b>-2,558,160</b>	<b>1,188,147</b>	<b>46.45</b>	<b>-6,812,927</b>
NET OPERATING TRANSFER IN/OUT	0	0	0	N/A	0
NON-OPERATING ITEMS					
TOTAL NON-OPERATING ITEMS	1,257,057	0	-1,257,057	N/A	0
NET INCOME	-2,627,069	-2,558,160	-68,910	-2.69	-6,812,927

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

April 16, 2024

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss for the Month of January 2024

**RECOMMENDATION(S)**

Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of January 2024.

(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

The accounts receivable loss for the month ending January 31, 2024, is \$249,225.82. The Housing Authority of the County of San Bernardino (HACSB) projects and anticipates collection losses in its annual budget.

**BACKGROUND INFORMATION**

On a monthly basis, HACSB records vacated tenant accounts for the Authority Owned Portfolio for the purpose of being written off to collection losses. Authority Owned Portfolio units are owned by HACSB and were either acquired or developed through a variety of partnerships with local governments and/or HACSB's non-profit affiliate Housing Partners I, Inc., and also include public housing developments converted through the United States Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program.

Despite HACSB's efforts to collect the debts listed in the attached reports, it has been determined that such debts are uncollectible. As part of HACSB's standard property management business practices, Board of Commissioners approval is requested to write off these accounts as accounts receivable losses to the Authority Owned Portfolio. Losses during this time period are primarily for voluntary move-outs and evictions. The total write-off for the month of January 31, 2024, is \$249,225.82, as delineated in the following table. Attached is a worksheet that itemizes the individual accounts.

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss  
for the Month of January 2024  
April 16, 2024

**SUMMARY FOR HACSB- Authority Owned Properties**

<b>PROPERTY</b>	<b>NO. VACATED</b>	<b>TOTAL</b>
481131 - Maplewood	1	3,231.00
481150- Redlands	1	4,279.00
481172 - Barstow	3	24,403.73
403 - Summit Walk	1	912.00
407 - Sunset Pointe	4	5,575.75
408 - Sunrise Vista	4	11,116.00
409 - Andalusia	4	55,469.00
423 - Mesa Gardens	0	-
426 - Sunnyside	1	26,066.00
428 - Charlemagne	1	511.00
434d - Third	0	-
437 - Sunset Gardens	0	-
467 - Hillcrest	0	-
481 - Waterman Gardens	1	1,034.10
490 - Northport	4	75,747.00
404000 - Chehalis	1	7,850.00
Concessions Write Off	0	-
<b>TOTAL RENT WRITE OFF</b>	<b>26</b>	<b>216,194.58</b>
Miscellaneous Charges		3,625.01
Maintenance Charges		43,751.73
Legal Charges		11,878.50
Security Deposits Applied		(26,224.00)
<b>NET TOTAL WRITE OFF</b>		<b>249,225.82</b>



Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss  
for the Month of January 2024  
April 16, 2024

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 3, 2024.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 01/31/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>481131 - Maplewood</b>													
1	C	M		E	1,564.00	3,231.00		483.65	155.00	670.00	4,539.65	723.00	3,816.65
<b>TOTALS:</b>						<b>3,231.00</b>	<b>-</b>	<b>483.65</b>	<b>155.00</b>	<b>670.00</b>	<b>4,539.65</b>	<b>723.00</b>	<b>3,816.65</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Notice to Pay of Quit	12/09/23	Posted	01/09/24	N/A				01/29/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>481150- Redlands</b>													
1	H	P		E	904.00	4,279.00		100.00	1,375.54	794.00	6,548.54	1,000.00	5,548.54
<b>TOTALS:</b>						<b>4,279.00</b>	<b>-</b>	<b>100.00</b>	<b>1,375.54</b>	<b>794.00</b>	<b>6,548.54</b>	<b>1,000.00</b>	<b>5,548.54</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Notice to Pay or Quit	09/06/23	posted	10/10/23		Y	12/05/23	01/20/24	01/20/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>481172 - Barstow</b>													
1	M	M		V	336.00	166.75			1,318.00		1,484.75	1,149.00	335.75
2	N	J		E	725.00	5,672.98		1,451.36	1,067.00	752.00	8,943.34	1,410.00	7,533.34
3	F	S		E	1,870.00	18,564.00			721.00	720.00	20,005.00	1,100.00	18,905.00
<b>TOTALS:</b>						<b>24,403.73</b>	<b>-</b>	<b>1,451.36</b>	<b>3,106.00</b>	<b>1,472.00</b>	<b>30,433.09</b>	<b>3,659.00</b>	<b>26,774.09</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Intent to Vacate			n/a	n/a	N	n/a	Voucher move	01/10/24
2	Notice to Pay or Quit	05/08/23	Posted	06/12/23	06/22/23	Y	09/21/23	01/12/24	01/12/24
3	Notice to Pay or Quit	09/06/23	Posted	10/16/23	12/07/23	N	n/a	01/23/24	01/23/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>403 - Summit Walk</b>													
1	H	J		V	1,801.00	912.00	-		1,048.00		1,960.00	835.00	1,125.00
<b>TOTALS:</b>						<b>912.00</b>	<b>-</b>	<b>-</b>	<b>1,048.00</b>	<b>-</b>	<b>1,960.00</b>	<b>835.00</b>	<b>1,125.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Intent to Vacate	12/15/23							01/14/24

\*Reasons: E=Evictions S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 01/31/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>407 - Sunset Pointe</b>													
1	W	D				(8,030.00)					(8,030.00)		(8,030.00)
2	B	J		V	997.00	2,646.00		1,500.00	1,601.00		5,747.00	997.00	4,750.00
3	K	D		V	825.00	366.00			1,606.00		1,972.00	700.00	1,272.00
4	G	A		V	1,200.00	395.00			911.00		1,306.00	900.00	406.00
5	J	C		E	820.00	10,198.75	-		2,008.00		12,206.75	500.00	11,706.75
<b>TOTALS:</b>						<b>5,575.75</b>	<b>-</b>	<b>1,500.00</b>	<b>6,126.00</b>	<b>-</b>	<b>13,201.75</b>	<b>3,097.00</b>	<b>10,104.75</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Adjustment to previous month write off								
2	Notice to Pay or Quit	01/10/24	Hand	N/A				resident turned in keys the day he received notice	01/10/24
3	Intent to Vacate	11/17/23							01/18/24
4	Intent to Vacate	11/02/23							01/01/24
5	Notice to Pay or Quit	01/17/23	Posted	05/22/23	08/30/23	N	N/A	01/23/24	01/23/24

<b>408 - Sunrise Vista</b>													
1	G	S		S	997.00	1,374.00			1,372.00		2,746.00	500.00	2,246.00
2	Y	R		V	985.00	276.00			883.04		1,159.04	600.00	559.04
3	T	H		E	825.00	7,905.00			1,488.95	1,445.00	10,838.95	700.00	10,138.95
4	F	A		S	997.00	1,561.00	-		1,684.48	-	3,245.48	997.00	2,248.48
<b>TOTALS:</b>						<b>11,116.00</b>	<b>-</b>	<b>-</b>	<b>5,428.47</b>	<b>1,445.00</b>	<b>17,989.47</b>	<b>2,797.00</b>	<b>15,192.47</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Notice to Pay or Quit	12/08/23	Posted	N/A				turned in keys to avoid eviction	01/02/24
2	Notice to Pay or Quit	01/08/24	Posted	N/A				turned in keys to avoid eviction	01/24/24
3	Notice to Pay or Quit	09/08/23	Posted	09/25/23	10/13/23	Y	12/21/23	01/22/24	01/22/24
4	Notice to Pay or Quit	01/08/23	Posted	N/A				turned in keys to avoid eviction	01/23/24

\*Reasons: E=Evictions S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 01/31/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>409 - Andalusia</b>													
1	J	S					-		(795.00)		(795.00)		(795.00)
2	J	A		E	1,573.00	14,157.00	-		849.60	1,775.00	16,781.60	1,399.00	15,382.60
3	R	C								2,060.00	2,060.00		2,060.00
4	G	J					-			1,892.50	1,892.50		1,892.50
5	H	S		E	1,452.00	15,913.00			1,538.00		17,451.00	1,199.00	16,252.00
6	W	Q		E	1,800.00	15,630.00			1,099.00		16,729.00	2,770.00	13,959.00
7	G	H		E	1,222.00	9,769.00	-		1,910.02		11,679.02	900.00	10,779.02
<b>TOTALS:</b>						<b>55,469.00</b>	-	-	<b>4,601.62</b>	<b>5,727.50</b>	<b>65,798.12</b>	<b>6,268.00</b>	<b>59,530.12</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt								
2	Notice to Pay or Quit	08/16/23	Posted	10/02/23	10/12/23	Y	12/14/23	resident vacated by 01/12/24 per stipulated judgement	01/12/24
3	Adjustment to prior month write off								
4	Adjustment to prior month write off								
5	Notice to Pay or Quit	06/21/23	Posted	08/14/23	10/23/23	N		01/18/24	01/18/24
6	Notice to Pay or Quit	07/13/23	Posted	08/14/23	08/24/23	N		01/18/24	01/18/24
7	Notice to Pay or Quit	07/13/23	Posted	08/14/23	08/28/23	N		01/18/24	01/18/24

<b>423 - Mesa Gardens</b>													
1	R	W					-	-	(100.00)		(100.00)		(100.00)
<b>TOTALS:</b>						-	-	-	<b>(100.00)</b>	-	<b>(100.00)</b>	-	<b>(100.00)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt								

<b>426 - Sunnyside</b>													
1	P	A		T	1,295.00	26,066.00			9,647.00	95.00	35,808.00	1,295.00	34,513.00
<b>TOTALS:</b>						<b>26,066.00</b>	-	-	<b>9,647.00</b>	<b>95.00</b>	<b>35,808.00</b>	<b>1,295.00</b>	<b>34,513.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Notice to Pay or Quit	11/06/23	Hand	12/13/23	N/A			turned in keys to avoid eviction	01/02/24

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# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 01/31/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>428 - Charlemagne</b>													
1	C	J		V	1,802.00	511.00		90.00	1,700.00	75.00	2,376.00	1,750.00	626.00
<b>TOTALS:</b>						<b>511.00</b>	<b>-</b>	<b>90.00</b>	<b>1,700.00</b>	<b>75.00</b>	<b>2,376.00</b>	<b>1,750.00</b>	<b>626.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Notice to Pay or Quit	12/14/23	Posted					turned in keys to avoid eviction	01/17/24

<b>434d - Third</b>													
1	R	M							(112.00)		(112.00)		(112.00)
<b>TOTALS:</b>						<b>-</b>	<b>-</b>	<b>-</b>	<b>(112.00)</b>	<b>-</b>	<b>(112.00)</b>	<b>-</b>	<b>(112.00)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt								

<b>437 - Sunset Gardens</b>													
1	K	K							(51.00)		(51.00)		(51.00)
2	M	D							(100.00)		(100.00)		(100.00)
<b>TOTALS:</b>						<b>-</b>	<b>-</b>	<b>-</b>	<b>(151.00)</b>	<b>-</b>	<b>(151.00)</b>	<b>-</b>	<b>(151.00)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt								
2	Payment on bad debt								

<b>467 - Hillcrest</b>													
1	H	E							(120.00)		(120.00)		(120.00)
<b>TOTALS:</b>						<b>-</b>	<b>-</b>	<b>-</b>	<b>(120.00)</b>	<b>-</b>	<b>(120.00)</b>	<b>-</b>	<b>(120.00)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)	Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt								

\*Reasons: E=Evictions S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 01/31/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>481 - Waterman Gardens</b>													
1	A	G		V	1,362.00	1,034.10			1,279.90		2,314.00	800.00	1,514.00
<b>TOTALS:</b>						<b>1,034.10</b>	<b>-</b>	<b>-</b>	<b>1,279.90</b>	<b>-</b>	<b>2,314.00</b>	<b>800.00</b>	<b>1,514.00</b>
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date			
1	Intent to Vacate	10/20/23								01/12/24			

<b>490 - Northport</b>													
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date			
1	F	K				6,897.00				6,897.00			6,897.00
2	V	S				5,980.00				5,980.00			5,980.00
3	C	B				8,180.00				8,180.00			8,180.00
4	G	K		E	1,800.00	9,230.00		177.00		9,407.00	-		9,407.00
5	L	S				4,000.00				4,000.00			4,000.00
6	O	R				4,290.00				4,290.00			4,290.00
7	R	K		E	1,800.00	6,930.00		177.00		7,107.00	-		7,107.00
8	P	C				6,800.00				6,800.00			6,800.00
9	N	R				5,580.00				5,580.00			5,580.00
10	L	S				5,580.00				5,580.00			5,580.00
11	W	H		E	1,200.00	6,810.00		177.00		6,987.00	-		6,987.00
12	P	M		V	1,600.00	5,470.00		877.00		6,347.00	3,000.00		3,347.00
<b>TOTALS:</b>						<b>75,747.00</b>	<b>-</b>	<b>-</b>	<b>1,408.00</b>	<b>-</b>	<b>77,155.00</b>	<b>3,000.00</b>	<b>74,155.00</b>
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date			
1	Adjustment to prior month write off-beginning balance												
2	Adjustment to prior month write off-beginning balance												
3	Adjustment to prior month write off-beginning balance												
4	Notice to Pay or Quit	08/07/23	Posted						turned in keys to avoid lockout	01/15/24			
5	Adjustment to prior month write off-beginning balance												
6	Adjustment to prior month write off-beginning balance												
7	Notice to Pay or Quit	08/07/23	Posted						turned in keys to avoid lockout	01/12/24			
8	Adjustment to prior month write off-beginning balance												
9	Adjustment to prior month write off-beginning balance												
10	Adjustment to prior month write off-beginning balance												
11	Notice to Pay or Quit	08/07/23	Posted						01/11/24	01/11/24			
12	Notice to Pay or Quit	12/14/23	Posted	N/A					turned in keys to avoid eviction	01/21/24			

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# Housing Authority County of San Bernardino

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Month End: 01/31/24

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>404000 - Chehalis</b>													
1	G	L		E	1,100.00	7,850.00	-	-	8,359.00	1,600.00	17,809.00	1,000.00	16,809.00
<b>TOTALS:</b>						<b>7,850.00</b>	<b>-</b>	<b>-</b>	<b>8,359.20</b>	<b>1,600.00</b>	<b>17,809.20</b>	<b>1,000.00</b>	<b>16,809.20</b>
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
1	Notice to Pay or Quit	08/10/23	Posted	08/30/23	09/11/23	Yes		11/16/23	01/10/24		01/10/24		
<b>ALL PROPERTY TOTALS:</b>						<b>216,194.58</b>	<b>-</b>	<b>3,625.01</b>	<b>43,751.73</b>	<b>11,878.50</b>	<b>275,449.82</b>	<b>26,224.00</b>	<b>249,225.82</b>

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

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