

**HOMECOMINGS, INC**

**REQUEST FOR PROPOSALS (RFP)**

**FOR GREENPOINT RATER CONSULTANT**

**FOR**

**WILLETT RANCH APARTMENTS**

**Issue Date:**  
**Monday, August 14, 2017**

**Submittal deadline**  
**August 29, 2017 at 4:00 p.m. PST**

The responsibility for submitting a response to this RFP at the offices of the Housing Authority of the City of San Buenaventura (“HACSB”) on or before the stated time and date will be solely and strictly the responsibility of the Respondent. Homecomings will in no way be responsible for delays caused by the United States Mail delivery or caused by any other occurrence.

**I. General Information**

**A. Introduction**

The mission of the Housing Authority of the City of San Buenaventura, (HACSB) hereinafter referred to as the "HACSB", is to provide and develop quality affordable housing for eligible low-income residents of Ventura County and to establish strong partnerships necessary for HACSB customers to achieve personal goals related to: literacy and education; health and wellness; and job training and employment leading to personal growth and economic self-sufficiency.

The Authority which was created in 1949, directly administers two federal programs: 295 public housing apartments which it developed, manages and maintains; and a Section 8 Housing Choice Voucher (HCV) Program. The Authority currently administers approximately 1,700 rental subsidy HCVs.

The Agency and its two associated non-profits own a total of 623 tax credit and income-restricted rental apartments, and have a growing pipeline of real estate development projects including, a family farm worker development, one senior development and a public housing redevelopment.

**For work planning purposes, please note, HACSB works a 4/10 work schedule with Fridays off.**

**B. Purpose**

Homecomings, Inc., hereinafter referred to as “Homecomings”, its affiliated nonprofit corporation, is seeking a proposal from a GreenPoint rater consultant to provide GreenPoint rater services for its Willett Ranch project. The Willett Ranch project is located in the City of San Buenaventura. Willett Ranch will be developed by the Housing Authority of the City of San Buenaventura and owned by a limited partnership with Homecomings, Inc., as the sole member of the General Partner

**C. Overview**

The Housing Authority of the City of San Buenaventura (HACSB) plans to develop Willett Ranch, 50 apartments of affordable senior housing. HACSB has an agreement to purchase the site for this project, two lots totaling 2.05 acres on Ventura Avenue that will be created at final map recordation. The Project is located at 2686 North Ventura Avenue, Ventura, CA 93001, at the southeast corner of Ventura Avenue and School Canyon Road.

The Project will include 44 one-bedroom apartments, and 6 two-bedroom apartments, a community room, a laundry room, and office space. There will be one two story building on each lot. The apartments will be accessed by double loaded corridors. A total of 73 parking spaces will be provided. Primary access and access to parking will be from the new Willett Street.

Almost an acre will be landscaped open space.

As currently planned, all fifty apartments will have project based vouchers and will be affordable to very low and low-income households. One resident will serve as a caretaker. Project financing will include tax exempt bonds and 4% tax credits, and may include other sources. Ultimately, the project will be owned by a to-be-formed limited partnership; the general partner will be an LLC with Homecomings, Inc., an affiliate of HACSB, as the sole member.

The project is part of the Solana Heights new residential community on a 27.6-acre site.

HED will serve as executive architect.

#### **D. Board**

The HACSB is governed by a Board of Commissioners. Homecomings, Inc. is governed by a Board of Directors.

#### **E. Contact Information**

##### **Karen Flock, Senior Developer**

Housing Authority of the City of San Buenaventura  
995 Riverside Street  
Ventura, CA 93001  
(805) 626-5819  
[kflock@hacityventura.org](mailto:kflock@hacityventura.org)

#### **F. Scope of Services**

All work performed shall be at the direction of HACSB's CEO acting as the Contract Officer, or her designee, Karen Flock, Senior Developer.

The selected firm will enter into the contract with Homecomings, Inc. The contract will ultimately be assigned to a to-be-formed limited partnership. A form of the contract is attached.

The Scope of Work and Deliverables will include the following:

1. Energy model review and consultation
2. CUAC (California Utility Allowance Calculator) Analysis
3. Utility Incentive program review and analysis
4. Utility Incentive HERS inspections and verification

RFP attachments can be found by clicking on the Dropbox link on the following Housing Authority of the City of San Buenaventura webpage:  
[http://www.hacityventura.org/Business\\_Opportunities/business.html](http://www.hacityventura.org/Business_Opportunities/business.html)

The RFP attachments are as follows:

1. June 18, 2007, City Council Staff Report. October 19, 2016, Design Review Committee Staff Report. Please review for DRC approved conceptual design, floorplans and elevations and Conditions of Approval.
2. Architectural plans labeled 8th submittal and dated 6/2/2016.
3. Landscape plans dated 6/10/2016.

#### **G. Expense Associated with Submission**

All expenses involved with the preparation and submission to Homecomings shall be borne by the Respondent.

#### **H. Options**

Homecomings may, at its sole and absolute discretion, reject any and all, or parts of any and all, proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the responses received as a result of this RFP. Also, the determination or the criteria and process whereby responses are evaluated, the decision as to who shall receive a contract award, or whether or not an award shall be made as a result of this RFP, shall be at the sole and absolute discretion of Homecomings.

## **II. RFP Instruction**

### **A. RFP Submission and Format**

Please submit one (1) pdf file on compact disk or flash drive plus one (1) original hard copy of your response in the same package clearly marked on the outside “Response to RFP: “GreenPoint Rater Consultant” addressed to:

Karen Flock, Senior Developer  
Housing Authority of the City of San Buenaventura  
995 Riverside Street  
Ventura, CA 93001

**Review the attached Form HUD-5369-B: Instructions to Offerors Non-Construction (Exhibit A)**

In order to be considered for selection as Dry Utility Consultant, the respondent shall adhere to the format of this RFP as detailed herein and submit the following items in the specified order. The qualifications of the respondent will be evaluated based upon

the criteria presented in this RFP.

**A. Cover Letter** - This letter should introduce the project team, naming the key players and highlighting the firm's qualifications for this project;

**B. Company Profile** - Company history; number of years in business; including whether the company is a Section 3 or has a Section 3 plan, minority or women owned business;

**C. Project Team** - Provide resumes of proposed project personnel indicating years employed by the firm;

**D. Project Experience & References** - Please provide a list of services provided for similar size projects completed or in progress, along with three references of similar type projects (please include name, title, organization, contact number); Note: do not use Housing Authority of the City of San Buenaventura staff for reference purposes;

**E. Explanation of your approach to the project** – Include any obstacles to availability to perform work on the project, and any substitution of personnel or other remedy anticipated.

**F. Project Fees** – Please provide General Terms and Conditions and fees for this work.

**G. Legal Factors** – Please provide a list of outstanding lawsuits including claims both settled and unsettled for the past five (5) years, along with a self-certification that the Respondent has no active federal, state of public agency disqualification.

**H. Form HUD-5369-C (8/93), Certification and Representations of Offers, Non-Construction Contract:** This form is attached hereto as (Exhibit B) to this RFP document. This 2-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.

**I. Section 3 Business Preference Documentation (Optional Item):** For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Certification Form attached hereto as (Exhibit C) and any documentation required by that form.

**J. PSA – Homecomings, Inc Professional Services Agreement:** A copy of the Professional Services Agreement is attached. (Exhibit D). If you have specific concerns about the Agreement, please explain in your Cover Letter.

## **B. RFP Terms and Conditions**

### **1. Board and Staff Communications**

Under no circumstances may any Board or staff member, other than the contacts specified herein, be contacted regarding this RFP. **Failure to adhere to this restriction may result in disqualification.** If you have any questions or require clarifications, submit them in writing (preferred) to [kflock@hacityventura.org](mailto:kflock@hacityventura.org) or contact Karen Flock at (805) 626-5819 no later than five (5) working days prior to the submission deadline. All questions will be answered in writing by email and copied to all who have indicated by email to Karen Flock that they may respond.

2. **Timetable for Submission**

The deadline for submissions in response to this RFP is August 29, 2017, at 4:00 p.m. PST. Submissions must be hand delivered or mailed by certified mail. **Email and FAX responses will not be accepted.**

3. **Release of Information**

Information submitted in response to this RFP will not be released by Homecomings during the evaluation process or prior to a contract award.

4. **Proprietary Information**

Please be aware that we have been advised by legal counsel that all materials submitted in response to a federally funded solicitation must be made available to the public once a selection has been made. Hence potential Respondents are forewarned that any proprietary information contained in their response will upon request be available to the public after contract award.

5. **Term of Contract**

A. The respondent shall provide appropriate state and local certifications and licensing documents.

B. **Insurance:** Before the services can be rendered, the selected firm must provide proof of Professional Liability Insurance (including Errors and Omissions) in a minimum amount of \$1,000,000 per occurrence and Workers' Compensation as required by Law. Certificates of Insurance acceptable to the Housing Authority must be submitted prior to commencement of any work. These certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless thirty (30) day prior written notice has been given to the HACSB. If the insurance described above is cancelled, HACSB reserves the right to terminate the contractual relationship upon thirty (30) days' notice.

Professional Liability	Required Limits
HACSB and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to HACSB such as appraisers, inspectors, attorneys, engineers or	\$1,000,000
Business Automobile Liability	Required
HACSB and its affiliates must be named as an additional insured and as the certificate holder. This is required for any vendor that will be using their vehicle to do work on HACSB properties.	\$500,000 combined Single limit, per occurrence
Workers Compensation and Employer's Liability	Required Limits
Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$1,000,000. Workers' Compensation is required for any vendor made up of more than two persons. A Waiver of Subrogation in favor of HACSB must be included in the Workers' Compensation policy. HACSB and its affiliates must be a Certificate Holder.	<b>Statutory</b> \$500,000 bodily injury for each accident \$500,000 bodily injury by disease for each employee \$500,000 bodily injury disease aggregate
Commercial General Liability	Required Limits
This is required for any vendor who will be doing hands on work at HACSB properties. HACSB and its affiliates must be named as an Additional Insured and as the Certificate Holder.	\$1,000,000 per accident \$2,000,000 aggregate

**6. Homecomings Reserves the Right to:**

- A. Request an oral interview with and any additional information from firms prior to final selection of the Consultant.
- B. Consider information about a firm in addition to the information submitted in the response or interview.
- C. Reject any and all responses and waive any irregularities.
- D. Negotiate the fees proposed by all proposers. If such negotiations are not, in the opinion of Homecomings, Inc. successfully concluded within a reasonable timeframe as determined by Homecomings, Inc., Homecomings, Inc. shall retain the right to end such negotiations.
- E. To retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals without the written consent from Homecomings, Inc..

- F. Reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to Homecomings, Inc., if:
  - a. Funding is not available,
  - b. Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
  - c. Homecomings, Inc.'s requirements in good faith change after award of the contract.
- G. Without any liability; cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties

7. **Non-Discrimination/Conflict of Interest.**

**A. Affirmative Action:** The Offeror warrants adhering to all civil rights, equal opportunity, and fair housing and Section 3 regulations. Homecomings, Inc. strongly encourages minority-owned and women-owned businesses, socially and economically disadvantaged business enterprises, and small businesses to submit proposals, to participate as partners, or to participate in other business activity in response to this RFP.

Section 3 of the Housing and Urban Development Act of 1968 requires HACSB to the greatest extent feasible to provide employment opportunities to the Section 3 residents. Section 3 residents include residents of Homecomings, Inc. communities and other low-income residents of the City of San Buenaventura.

The firm awarded the contract agrees to use its best efforts to subcontract and employ Section 3 residents, minority business enterprises and/or women business enterprises. Homecomings, Inc. is an equal opportunity employer and requires its entire contractor to comply with polices and regulations concerning equal employment opportunity.

B. The Respondent warrants that it presently has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services under this contract.

**III. Evaluation of Qualifications**

The GreenPoint Rater Consultant Proposals will be evaluated by the following factors.

**Demonstration of Experience:**

Contractor must have provided dry utility planning services for three (3) large projects within the last five (5) years

Experience should be with projects of similar size and complexity

Projects submitted must be in California. Please include information on any



projects the firm has worked on in the City of Ventura.

**Evidence of Professional Capabilities:**

Proposed Project Manager or any other project related staff

**Legal Factors**

Any outstanding lawsuit should be fully explained

No contract will be awarded to any applicant with an active federal, state or public agency disqualification

**Fees**

Explanation of fees for work.

**IV. Selection Process and Criteria**

**A.** Homecomings, Inc. will appoint a review committee which will conduct a threshold review to first determine that: 1) the submittal is complete and in the requisite format; and, 2) there is no active federal, state or public agency disqualification which would bar an Offeror from entering a contract.

**B.** Homecomings, Inc. will evaluate all of the proposals against the evaluation factors stated in this RFP and may invite the highest ranked firm(s) to participate in an interview or may award a contract on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Respondent's best terms from a cost or price and technical standpoint.

**C.** The review committee will evaluate the proposals which pass the threshold review and assign points based upon the evaluation criteria described herein.

**D.** It is solely Homecomings, Inc.'s decision as to whether interviews will be held, who will be interviewed and who will be awarded a contract.

Points will be awarded as follows:

- 1. Availability & Key Personnel: 20 points**
- 2. Past performance on Similar Projects: 35 points**
- 3. Overall Cost: 20 points**
- 4. Section 3: 15 points**
- 5. Minority or Women Owned Business: 10 Points**

**Total of 100 Points**

**Exhibit A**

Form HUD-5369-B: Instructions to Offerors Non-Construction

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The HA may

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

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

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

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

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

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

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

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

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

[Describe bid or proposal preparation instructions here:]

**Exhibit B**

Form HUD-5369-C (8/93), *Certifications and Representations of Offerors, Non-Construction Contract*

# Certifications and Representations of Offerors Non-Construction Contract

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

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

## 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

- Black Americans       Asian Pacific Americans
- Hispanic Americans       Asian Indian Americans
- Native Americans       Hasidic Jewish Americans

## 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

---

Signature & Date:

---

Typed or Printed Name:

---

Title:

---

**Exhibit C**

Section 3 Business Preference Documentation



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

NAME OF BUSINESS: \_\_\_\_\_

ADDRESS OF BUSINESS: \_\_\_\_\_

TYPE OF BUSINESS:       Corporation       Partnership       Sole Proprietorship       Joint Venture

Attached is the following documentation as evidence of status:

**For business claiming status as a Section 3 resident-owned Enterprise:**

Copy of resident lease     Other evidence     Copy of evidence of participation in a public assistance program

**For the business entity as applicable:**

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

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

List of subcontracted Section 3 business and subcontract amount

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

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

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

- |   |  |
|---|--|
| <input type="checkbox"/> Current financial statement    | <input type="checkbox"/> List of owned equipment                                       |
| <input type="checkbox"/> Statement of ability to comply | <input type="checkbox"/> List of all contracts for the past 2 years with public policy |

**Corporate Seal**

\_\_\_\_\_  
Authorizing Name and Signature

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Title

My term expires: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES**

Number Of All Contracts Proposed: \_\_\_\_\_

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

Dollar Value Of All Contracts Proposed: \_\_\_\_\_

Project: \_\_\_\_\_

To The Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation Or Proposal To Qualified Project Area Businesses.

Goal Of These Contracts For Project Area Businesses:

PROPOSED TYPE OF CONTRACT	APPROX. COST	PROPOSED TYPE OF CONTRACT	APPROX. COST

Outline The Program To Achieve These Goals For Economically And Socially Disadvantaged:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE: To Complete The Affirmative Action Plan, Follow Steps Outlines In Attached Exhibit.**

(INSERT THIS DOCUMENT IN PROPOSAL DOCUMENTS AND WITH PROPOSAL) DATE: \_\_\_\_\_

Signature

Date

Printed Name

**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES  
(con'd)**

SUGGESTED SECTION 3 PRELIMINARY WORKFORCE STATEMENT UTILIZATION OF LOWER INCOME PROJECT AREA RESIDENTS AS REGULAR, PERMANENT EMPLOYEES, TRAINEES, APPRENTICES.

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

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

PROJECT: \_\_\_\_\_

	PRESENT PERMANENT EMPLOYEES (At Time of Contract Signing)	SECTION 3 WORKFORCE PROJECTION (Residents)	TOTAL PROJECTED WORKFORCE INCREASE
TRAINEES			
APPRENTICES			
JOURNEYPERSONS			
LABORERS			
SUPERVISORY			
SUPERINTENDENT			
PROFESSIONAL			
CLERICAL			

**NOTE: RESIDENTS ARE THOSE LOWER INCOME PROJECT AREA RESIDENTS WHO HAVE BEEN QUALIFIED AS ELIGIBLE.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

## SECTION 3 BUSINESS PREFERENCE CLAUSE

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

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

## PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES

The HA has established the following priority for preference when providing contracting opportunities to Section 3 Businesses:

### Priority I

#### Category 1a Business

Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3-covered assistance is expended.

### Priority II

#### Category 1b Business

Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.

### Priority III

#### Category 2a Business

Business concerns that are 51 percent or more owned by residents of any other housing development or developments.

### Priority IV

#### Category 2b Business

Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.

### Priority V

#### Category 3 Business

Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistance is expended.

### Priority VI

#### Category 4a Business

Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.

### Priority VII

#### Category 4b Business

Business concerns that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

### Eligibility for Preference

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.

HUD directs within 24 CFR 135 that the HA may make award to qualified Section 3 business concern with the highest priority ranking and with the lowest responsive proposal if that proposal is:

- (a) within the maximum total contract price established by the HA; or
- (b) not more than "X" higher than the total proposal price of the lowest responsive proposal from any responsible proposer. "X" is determined as follows:

"X" = LESSOR OF:	
When the lowest responsive proposal is less than \$100,000	10% of that proposal, or \$9,000.00
When the lowest responsive proposal is at least:	
\$100,000.00, but less than \$200,000.00	9% of that proposal, or \$16,000.00
\$200,000.00, but less than \$300,000.00	8% of that proposal, or \$21,000.00
\$300,000.00, but less than \$400,000.00	7% of that proposal, or \$24,000.00
\$400,000.00, but less than \$500,000.00	6% of that proposal, or \$25,000.00
\$500,000.00, but less than \$1,000,000.00	5% of that proposal, or \$40,000.00
\$1,000,000.00, but less than \$2,000,000.00	4% of that proposal, or \$60,000.00
\$2,000,000.00, but less than \$4,000,000.00	3% of that proposal, or \$80,000.00
\$4,000,000.00, but less than \$7,000,000.00	2% of that proposal, or \$105,000.00
\$7,000,000.00, or more	1.5% of the lowest responsive and responsible proposal with no dollar limit

**Exhibit D**

Homecomings, Inc Professional Services Agreement

## PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into as of this \_\_\_\_\_ between Homecomings, Inc., its directors, officers, agents and other representatives (collectively, "Homecomings") and \_\_\_\_\_ its heirs, successors or assigns, agents, or other representatives ("collectively, Contractor").

### RECITALS

Whereas, Contractor possess particular skill and expertise in the area of \_\_\_\_\_ and performs such services on a consulting basis;

Whereas, Homecomings is in need of such services;

Now, therefore, Homecomings wishes to engage the services of Contractor subject to the terms and conditions set forth herein:

1. **Scope of Consulting Duties.** In exchange for the compensation set forth below, Contractor shall provide consulting services outlined in Exhibit A.

2. **Reporting.** Contractor shall receive direction with regard to consulting services desired from \_\_\_\_\_ and shall direct all reports, questions or communications to \_\_\_\_\_ as needed.

3. **Timing of Services.** Except for meeting any project deadlines and complying with any budget limitations established by Homecomings with the agreement of Contractor, Contractor shall set his/her own hours and days of work, and shall be solely responsible for determining the dates, amount and frequency of time spent performing services to Homecomings.

4. **Compensation.** Contractor shall be paid a rate of \$\_\_\_\_ per hour in hourly fees OR per the Time and Materials Fee Schedule attached as Exhibit B to this contract during which consulting services are rendered pursuant to the terms of this Agreement, with total payment for all services rendered hereunder not to exceed \_\_\_\_\_ without the prior written approval of Homecomings. Contractor shall invoice Homecomings for all such services performed by no later than the last business day of each month, and shall provide supporting documentation for all such invoicing. Homecomings shall pay each invoice by no later than thirty (30) days following receipt of said invoice by check made payable to Contractor. Contractor shall provide appropriate tax identification information to Homecomings.

5. **Expenses and Equipment.** Contractor shall be solely responsible for all personal out-of-pocket expenses (including but not limited to travel charges, mileage, meals, supplies, electronic equipment, business accounts or other personal expenses) incurred in connection with the performance of the duties described hereunder.

6. **Staff.** Contractor shall have the right to retain staff as necessary to support Contractor's performance of the services contemplated hereunder, without the prior approval of Homecomings. Contractor shall inform Homecomings of the identity of any such personnel within three (3) business days of retaining such personnel.



**7. Compliance with Laws.** The Contractor, in its performance of its obligations under this Agreement, shall comply with all laws, ordinances, codes, rules, regulations, licensing, permitting or certification requirements that are applicable to the conduct of the Contractor's business and its performance of the services under this Agreement. If the Contractor performs services contrary to applicable laws, ordinances, codes, rules and regulations, the Contractor shall assume responsibility for such services and shall bear the costs attributable to correction.

**8. Term of Agreement.** This Agreement will be deemed awarded only after the Agreement has been formally approved and signed by both parties. Contractor will have no authority to start work, no payment will be authorized by Homecomings, and Homecomings will not be liable for any materials purchased or services rendered by the Contractor prior to the award of the contract. This agreement shall commence on \_\_\_\_\_, and shall continue until terminated by either party. Upon termination, Contractor shall be entitled to payment in full for all services performed prior to notice of termination.

**9. Termination of Agreement.** Either party may terminate this Agreement upon ten (10) days' written notice to the other party. Homecomings may immediately terminate this Agreement for cause if Contractor fails or refuses to comply with the policies or reasonable directives of Homecomings, is guilty of misconduct in connection with performance of his/her services to Homecomings, or materially breaches provisions of this Agreement.

**10. Assignment.** Contractor shall have no right to assign his/her rights and obligations hereunder to any third party. Homecomings may assign its rights and obligations under this Agreement to a third party only upon the written approval of Contractor.

**11. Scope of Authority.** Contractor has no authority to take action outside the scope of the duties described above on behalf of Homecomings without the prior approval of Homecomings, and may not hold him/herself out as having such authority. Neither party has the right to bind the other party to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

**12. Confidentiality.** Contractor acknowledges that during the engagement he/she will have access to and become acquainted with various trade secrets, inventions, innovations, member records or information, processes, information, records, data and ideas by Homecomings and/or used by Homecomings in connection with the operation of its business. Contractor agrees that he/she will not disclose any of this property or information, directly or indirectly, or use any of it in any manner for the benefit of him/herself or for any third party, either during the term of this Agreement or at any time thereafter, except as required in the course of his/her provision of services to Homecomings. All customer records or information, business records or information, files, records, documents, letters, notes, media lists, original artwork and similar items relating to the business of Homecomings, whether prepared by Contractor or otherwise coming into his/her possession, shall remain the exclusive property of Homecomings. Upon the termination of this Agreement, or whenever requested by Homecomings, Contractor shall immediately deliver to Homecomings all such property, information, and other items in his/her possession or under her control. Contractor further agrees that he/she will at all times preserve the confidential nature of his/her relationship to Homecomings and of the services hereunder.

**13. Conflicts of Interest.** Contractor represents that he/she is free to enter into this Agreement and that this engagement does not violate the terms of any agreement between Contractor and any third party. During the term of this agreement, Contractor shall perform the required duties in a timely and productive manner. Contractor is expressly free to perform services for other parties while performing services for Homecomings, as long as such provision of services does not impair Contractor's ability to perform his/her duties to Homecomings or pose a conflict of interest or breach of confidentiality for Homecomings, in Homecomings' sole discretion.

**14. Independent Contractor.** This Agreement shall not render Contractor an employee, partner, agent of, or joint venture with Homecomings for any purpose. Contractor is and will remain at all times an Independent Contractor in his/her relationship to Homecomings. Contractor shall not be eligible for and shall have no claim against Homecomings hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, tax liability or employee benefits of any kind.

**15. Taxes.** Homecomings shall not be responsible for withholding taxes with respect to Contractor's compensation hereunder. As an independent contractor, Contractor shall be solely responsible for the payment of any and all taxes charged by any federal, state or local taxing authority as a result of Contractor's work performed or compensation paid pursuant to this Agreement. Contractor shall indemnify and hold harmless Homecomings from any and all such tax liabilities.

**16. Licenses and Insurance.** As an independent contractor, Contractor shall be solely responsible for determining and obtaining all personal or business licenses necessary for him/her to lawfully and safely perform the duties contemplated hereunder, including without limitation business tax license and driver's license as needed.

Before the services can be rendered, the selected firm must provide proof of Insurance. Certificates of Insurance acceptable to Homecomings, Inc must be submitted prior to commencement of any work. These certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless thirty (30) day prior written notice has been given to Homecomings. If the insurance described above is cancelled, Homecomings reserves the right to terminate the contractual relationship upon thirty (30) days' notice. (Exhibit C)

**17. Choice of Law.** The laws of the state of California shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

**18. Arbitration.** Any controversies arising out of this Agreement or its interpretation shall be resolved by arbitration in accordance with the provisions of the California Arbitration Act, section 1280 et seq. of the California Code of Civil Procedure. If the parties are unable to agree on a neutral arbitrator, then each party shall select one person, who shall then choose a third impartial arbitrator whose decision shall be final and conclusive on both parties. The parties shall share the fees and costs of arbitration on a 50/50 basis, except that each party shall bear its respective attorneys' fees and costs arising in any dispute under this Agreement. Venue for such arbitration shall be in Ventura County, California unless otherwise mutually agreed between the parties.

**19. Waiver.** Waiver by one party hereto or breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

**20. Notices.** Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

If to Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Homecomings:

Contact Person  
Title  
995 Riverside Street  
Ventura, CA 93001  
Telephone: (805) 648-5008 ext. xxxxx

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

**21. Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless it is in writing signed by the parties hereto.

**22. Attorneys' Fees and Costs.** In the event any dispute or claim arises out of this Agreement, the prevailing party shall be entitled to recover its reasonable fees and costs from the other party.

**23. Standard of Care.** The Contractor and its employees, subcontractors, and other persons or entities performing portions of the services for or on behalf of the Contractor, shall perform all services in a manner consistent with the standard of professional skill and care under California law, applicable to those who specialize in providing such services, under circumstance similar to that of the services which are the subject of this Agreement.

**24. Indemnification.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and at Owner's request defend, the Owner and its officers, directors, employees, and agents, from and against claims, liabilities, damages, losses, costs, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the services, failure to perform the services or condition of the services, to the extent caused in whole or in part by the negligent acts or omissions of the Contractor, a subconsultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be

construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section. The provisions of this Section shall survive the expiration or termination of this Agreement.

**25. Ownership of Work Product.** All documents, reports, surveys, materials, architectural and engineering drawings, and specifications (“Work Product”) developed or assembled by the Contractor in connection with this Agreement shall be the exclusive property of the Owner. The Owner shall own all of the right, title and interest, in and to the Work Product including without limitation, all trademarks, copyrights, trade secrets, patents, and any and all other intellectual property rights. The Owner shall have the unrestricted right to use and disclose the Work Product in any manner and for any purpose related to the Project without payment of further compensation to the Contractor. The Owner shall have the rights granted in this Section regardless of whether this Agreement is terminated early or Contractor fully performs its services under this Agreement. The Owner shall have access to the Work Product in whatever form at all times during the term of this Agreement. Any Work Product in the possession of the Contractor upon completion or termination of this Agreement shall be delivered to the Owner promptly upon payment to the Contractor for services rendered in accordance with this Agreement prior to termination or completion. Copies of the Work Product including reproducible copies may be retained by the Contractor but the Contractor warrants that the Work Product shall not be made available by the Contractor to any person or entity for use without the prior approval of the Owner other than in connection with the Project.

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

**27. Entire Understanding.** This document and any exhibit attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

**28. Unenforceability of Provisions.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

**29. Knowing and Voluntary Execution.** Homecomings and Contractor agree that each party has the authority to enter into this agreement, and that each party does so knowingly and voluntarily and with full understanding of its terms.

**IN WITNESS WHEREOF** the undersigned have executed this Agreement as of the date(s) reflected below. The parties hereto agree that facsimile signatures shall be as effective as if originals.

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

**Homecomings, Inc.**

\_\_\_\_\_  
**By: Contact Person**  
**Its: Title**

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

\_\_\_\_\_

\_\_\_\_\_  
**By: Contact Person**  
**Its: Title**