

**REQUEST
FOR
PROPOSALS**

FOR

MONTHLY LANDSCAPE MAINTENANCE SERVICES

FOR THE

**HOUSING AUTHORITY OF THE
CITY OF SAN BUENAVENTURA**

And

AFFILIATED ENTITIES

**995 RIVERSIDE STREET
VENTURA, CA 93001**

Submittal Deadline

Thursday, April 27, 2017 at 4:00 PM PST

The responsibility for submitting a response to this RFP at the offices of the Housing Authority of the City of San Buenaventura (the “Authority”) on or before the stated time and date will be solely and strictly the responsibility of the Offeror. The Authority 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/BACKGROUND

The Housing Authority of the City of San Buenaventura (herein referred to as the “HACSB”) was organized in 1949 with the primary goal to provide a decent home in a suitable environment for families which could not afford standard private housing. The Authority’s programs are administered at the local level in accordance with Federal and State Law.

The Department of Housing and Urban Development (HUD) has entered into Annual Contributions contract(s) with the Authority for annual contributions (financial assistance) for the operation of the Programs listed in Exhibit A.

General supervision, direction and program guidance are provided through the HUD Office in Los Angeles, California. HUD has authorized the Authority to procure an audit by an Independent Public Accountant and the Authority desires to obtain such an audit.

HACSB is responsible for the development of low-income rental projects, implementation of financing to promote low-income housing production, management of publicly owned or assisted housing projects, operation of rent-subsidy programs & rehabilitation of existing housing stock. HACSB serves the incorporated and the unincorporated areas of the City of Ventura.

HACSB staff has expertise in real estate development, property management, housing services, rehabilitation and administration, which includes Fiscal Services, Financial Management, Human Resources, Equal Opportunity/Contracting, purchasing, buildings facilities, and risk management. HACSB staff is culturally diverse and provides bilingual services in English, Spanish, or any other language necessary to communicate with our clients served.

HACSB Board of Commissioners consists of seven members appointed by City Council of the City of Ventura. Five members of the Board serve four-year terms and the two Resident Commissioners serve two-year terms. The Board is responsible for establishing HACSB policy, long-term goals, objectives and direction.

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

B. PURPOSE

Housing Authority of the City of San Buenaventura (HACSB) and its Affiliates are seeking proposals from qualified Monthly Landscape Maintenance Services

C. BOARD

The powers of the Authority are vested in the Board of Commissioners of the Authority (“the Board”).

D. CONTACT INFORMATION

Juan Jimenez, Maintenance Manager
Housing Authority of the City of San Buenaventura
995 Riverside Street
Ventura, CA 93001
805-648-5008 ext. 2235
jjimenez@hacityventura.org

E. SCOPE OF SERVICES

Contractor shall comply with HUD documents “General Conditions for Non-Construction Contracts”, “Instructions to Offerors Non-Constructions”, and “Certifications and Representations of Offers.” (refer to attachment B, C, and D).

Contractor shall furnish all labor, material, and equipment, required to perform landscape maintenance and related work as specified herein. The work to be performed will also include a weekly tour of specified sites to pick up and dispose of any miscellaneous tenant belongings and materials, and dumped items, such as couches, appliances, excessive trash, as specified herein.

- Major Items of Work by Contractor: The work includes but is not limited to, the following services:
 - Lawn maintenance, including turf mowing, removal of weeds and surface debris, fertilization and aerification.
 - Maintenance of a rodent, pest, and disease control program.
 - Maintenance and care, including fertilization pruning, of all foliage, ground cover, shrubs and trees.
 - Maintenance of the existing irrigation systems.
 - All maintained areas shall be kept in a “weed free” condition. All debris and litter shall be removed from the site with each maintenance visitation.

- Turf Maintenance:
 - Mowing and Trimming
 - Debris shall be removed prior to weekly mowing to prevent shredding of debris and a detrimental appearance of the turf areas.
 - Warm season grasses shall be cut at a height of 1/2” to 3/4”. Cool season grasses shall be cut a height of 1-1/2” to 2 inches, weekly.
 - A uniform high quality of cut shall be provided by mowers with sharp cutting edges.

- Clippings will be collected after each mowing and removed from the site.
 - Trimmings around trees shall be performed using hand labor/mechanical device after each mown, as long as the overall appearance is not adversely affected by poor workmanship. Prudent care shall be taken to protect the base of young trees when using string trimmers. At the discretion of the Housing Authority of the City of San Buenaventura Representative, trees damaged by poor workmanship will be brought to the attention of the Contractor and may be subject to replacement.
- Edging in Turf Area:
 - Lawn areas shall be edged on a weekly basis along curbs, sidewalks, sprinklers, planter headers, value boxes, fences, and berms. Grass clippings and trimmings shall not be allowed to remain on sidewalks, streets, driveways, or gutters and shall be disposed of offsite. At no time shall turf areas be allowed to encroach upon shrubs or groundcover areas.
- Weed Control in Turf Areas
 - Broadleaf weeds shall be controlled with a selective herbicide at manufacturer's recommended rates.
- Aerification in Turf Areas
 - As directed by the Housing Authority Representative on specific jobsites the Contractor shall provide aerification operations.
 - Contractor shall aerate turf grass areas no less than twice per year. Aeration shall be conducted within the months of March and September.
- Fertilization
 - Fertilize all groundcover and shrub beds with an approved 16-6-8 fertilizer containing micronutrients not less than four times per year (to achieve a rate of four pound actual nitrogen per year). Contractor shall notify HACSB Representative at least 48 hours in advance of any scheduled fertilizer application. All facilities within the same 30-day period.
- Weed Control
 - Weeds may be controlled with a pre-emergent herbicide and/or post emergent herbicide and removed off site immediately after desiccation. At no time shall weeds be allowed to become established. Contractor is herewith advised that at no time on any property under this specification shall weed oil or diesel

fuel be allowed as a herbicide. Use of such may result in cancellation of the contract.

- Tree Maintenance
 - The Contractor shall provide proper watering of all trees, where water is available, whether done by automated irrigation systems or manually with the use of hoses.
 - Trees shall be maintained in an erect, upright manner and shall be staked as necessary to maintain this position.
 - Pruning and trimming of trees shall be limited to removal and disposal of any dead and/or broken branches and any sucker growth located in or on the tree up to 12 feet.
 - Pruning of trees shall be completed to maintain a 2 foot clearance between the tree and the roof and/or building.
 - The Contractor shall remove or loosen any and all tree stakes and/or ties whenever damage to the trunk is being caused by girdling.

- Irrigation Systems - Contractor is responsible for maintaining, operating, and adjusting the irrigation system, and performing minor repairs as required, as herein defined.
 - Monthly, the Contractor shall visually and hydraulically inspect the irrigation system to ensure that no sprinkler breakage has occurred, no foreign matter is clogging the sprinkler heads and that sprinkler coverage and arc of sprays is proper, and shall correct any other inadequacies that might impair the proper performance of the irrigation system. Minor irrigation repairs shall be accomplished by the weekly maintenance crew as needed with like kind materials unless otherwise authorized by the HACSB Representative.
 - The Contractor is required to adjust the height of sprinkler heads in turf and groundcover areas to ensure proper coverage. Excavation around sprinkler heads in order to assure coverage from sprinklers is strictly prohibited.
 - Malfunctioning valves shall be brought to the attention of HACSB Representative for approval of appropriate repair.
 - At least once every two weeks, the Contractor shall review water requirements of project by probing in a least one area covered by each sectional valve ascertaining the anticipated water requirements, adjusting the automatic controller accordingly. Particular attention shall be given to avoid applying more water than the soil can absorb at one time. When more water is required than the soil is capable of taking at one time, Contractor shall set the automatic timer for repeat cycles at short intervals to satisfy the ultimate water demand. In no cases shall water be allowed to run across the surface of the ground.

- At sites where there are no automatic controllers, the Contractor shall still abide by those items delineated in the above paragraphs 1,2,3, and 4. The irrigation schedule shall coincide when Contractor services these sites. Additionally watering requirements shall be satisfied by the Contractor.
 - Contractor is discouraged from attempting to repair controllers in case of malfunctions, unless, unless the problem is extremely minor.
 - Contractor shall notify the HACSB representative immediately of any system failure or disruption, in order for steps to be taken to rectify the problem.
- Hardscaped Areas
 - Maintain all hard surface areas weed-free. This includes curbs, pavements, rockscapes, etc.
 - Weeds growing around or through hard surface areas may be treated with a chemical weed killer, providing that material used does not migrate into or onto areas not intended to be treated. Use of such chemicals is elective with Contractor, subject to prior approval by HACSB Representative, shall perform as specified. The use of toxic chemicals shall require proof of proper permit for use on this jobsite.
 - The above weed control shall be performed as often as needed or required.
- Removal and Disposal of Miscellaneous Tenant Belongings and Materials
 - Contractor will conduct a weekly tour of the sites to pick up and dispose of any miscellaneous tenant belongings, materials, and dumped items such as couches, appliances, and excessive trash.
 - At the direction of HACSB Representative, specific items may also be designated for pickup and disposal.
 - Items will be disposed of in HACSB's roll off bin, located at 995 Riverside Street.
 - The Housing Authority is responsible for payment to dump the bin. No disposal fees or landfill fees will be required of the Contractor.
 - Work Operations will be performed once a week to accomplish provisions of these specifications. The schedule may be adjusted for holidays, after consultation with the HACSB Representative.
- Additional Work Requirements
 - AMP 1, including the 995 Riverside St. Office shall receive M-F (daily) service. All other sites shall receive weekly service.

- Drainage channels and debris basins shall be kept clean and weed free at all times.
 - The base of the chain link fences, not covered with vines, shall be maintained at a one-foot clearance.
 - All clinging vines shall be trimmed close to the walls to maintain a neat appearance. At no time shall they be allowed to grow out of control.
 - Weed control to be maintained by chemical or mechanical means to result in a weed free condition at all times.
 - Contractor is herewith advised that at no time on any property under this specification shall weed oil or diesel fuel be allowed as an herbicide. Use of such, may result in cancellation of the contract.
 - Litter and debris shall be picked up and removed from all areas of the site with each weekly visit.
 - Sidewalks and building entrances shall be kept free of litter, debris, and dust, which shall be removed each weekly visit.
 - Contractor shall use an aerator with minimum 1/2 in diameter coring lines, the depth of (penetration shall be 2-3 inches with the cores spaced on a maximum of 6 inches on center.)
 - Contractor shall immediately clean up adjacent areas disturbed by aeration procedures.
- Turf Grass Renovation
 - Turf grass vertical mowing shall be conducted between October 15th and November 15th of each year of the contract unless otherwise directed by the HACSB Representative.
 - Contractor shall use a vertical mower to eliminate thatch. Thatch debris shall be removed from turf grass area leaving a maximum blade/leaf height of one quarter (1/4) inch.
- Fertilization Program – Turf Areas
 - Turf grass areas shall be fertilized frequently enough to maintain a healthy, vigorous and green appearance.
 - Turf areas shall be fertilized four times a year supplying one pound of actual Nitrogen per 1,000 sq. ft., using an approved 16-8-8 fertilizer containing micronutrients or HACSB approved equivalent. Contractor shall fertilize turf grass during the months of March, May, July, September, November, and January. During the cool season (Nov. to Feb.). Contractor shall notify the HACSB Representative at least 58 hours in advance of any scheduled fertilizer application. All facilities within this contract shall be fertilized within the same 30-day period.
- Pest and Disease Control

- The Contractor shall provide rodent, insect pest and disease control services at the first sign or symptom of infestations, or as directed by the HACSB Representative.
 - Notify the HACSB Representative at the first sign or symptom of pest or disease. Fresh rodent mounds are to be leveled to existing grade and all tunnel entrances filled.
 - Perform pest and disease control services in accordance with applicable laws and regulations set forth for commercial spraying for hire.
- Shrub and Groundcovers
 - Trimming
 - Trimming, selective pruning, thinning and training of ornamental plants, shall be performed as needed or required to maintain a pleasing appearance.
 - Hedging of shrubs into geometric shapes shall be permitted at the direction of the HACSB Representative where conditions are dictated by structural elements.
 - Shrubbery in parking areas shall be trimmed to permit non-impaired vehicular visibility at all times. Plant material under stress shall be trimmed to reduce evaporation.
 - At no time shall shrub growth be permitted to grow uncontrolled or to restrict pedestrian or vehicular passage, along sidewalks, driveways, road and roadsides. At no time shall dead and declining flower stalks be left on plant material.
 - Edging
 - Edging of groundcovers shall be performed frequently enough to prevent encroachment of the plant materials into trees, shrub beds and onto hard surfaces (curbs, driveways, walls, sidewalks, rock areas, drainage ditches, etc.) At no time shall groundcover or shrubs be permitted to impede sprinkler coverage or cover over valve boxes.
 - Dirt and debris from edging shall be removed completely. Method of edging shall be mechanical. Chemical edging shall be considered unacceptable. Approved growth regulators will be considered for both shrub and groundcover control.

F. EXPENSE ASSOCIATED WITH PROPOSAL SUBMISSION

All expenses involved with the preparation and submission of proposals to the Authority shall be borne by the Offeror.

G. HOUSING AUTHORITY OPTIONS

The Authority 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 proposals received as a result of this RFP. Also, the determination or the criteria and process whereby proposals are evaluated, the decision as to who shall receive a contract award, or whether or not an award shall ever be made as a result of this RFP, shall be at the sole and absolute discretion of the Authority.

II. RFP INSTRUCTIONS

A. RFP Submission and Format

Please submit one (1) original, two (2) copies, and (1) USB/CD copy of your response in the same package clearly marked on the outside “Response to RFP for Monthly Landscape Maintenance Services” to the Housing Authority of the City of San Buenaventura addressed to:

Juan Jimenez, Maintenance Manager
Housing Authority of the City of San Buenaventura
995 Riverside Street
Ventura, CA 93001

The Proposal will be organized as follows:

- **Cover Letter** - This letter should introduce the project team, naming the key players and highlighting your company’s qualifications for this project;
- **Company Profile** - Company history; number of years in business; including whether the company is a Section 3, minority or women owned business;
- **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;
- **Project Fees** – Please provide General Terms and Conditions and fees for this work. Provide individual prices for each property and a grand total.

- **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 or public agency disqualification.
- **PSA** – A copy of the Professional Services Agreement is attached.

B. RFP Terms and Conditions

The Authority reserves the right to select more than one respondent (and will accept joint venture proposals), to select a respondent(s) for specific purposes or for any combination of specific purposes and to defer the selection of any respondent(s) to a time of the Authority's choosing.

1. Board and Staff Communications

Under no circumstances may any member of the Board or any staff member other than the contacts specified in Paragraph I(D) be contacted during this RFP process by any entity intending to submit a response to this RFP. Failure to comply with this request will result in disqualification. All questions should be directed to the individuals identified in paragraph I (D) in writing (preferred) at jjimenez@hacityventura.org or by phone at (805) 648-5008 ext. 2235 no later than five (5) working days prior to the submission deadline.

2. Timetable for Submission

The deadline for submissions in response to this Request for Proposals is **4:00 PM PST, Thursday, April 27th**. Electronic and FAX responses will not be accepted for this request.

3. Release of Information

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

4. Propriety Information

- 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.

- All work papers prepared in connection with the contracted services will remain the property of the successful bidder. The work papers must be retained for a period of five years and be made available to HACSB upon request.
- All reports rendered to HACSB are the exclusive property of HACSB and subject to its use and control.

5. Terms of Contract

- The contract award will be made based on the RFP that best meets the needs of the HACSB taking into consideration compliance with the general requirements of the RFP, evaluation criteria, scope of the work or any other factors deemed to be appropriate and shall not be confined to price alone. The HACSB also reserves the right to accept or reject any and all RFP's received, waive irregularities and negotiate with individual firms regarding the terms of the RFP's or parts thereof, as set forth in section I(H) above.
- The contract will be for one (1) year fixed contract with the option to renew at the sole discretion of HACSB for up to four (4) additional one year periods.
- **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 consultants.	\$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 \$500,000. 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.	Statutory \$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

- **Vendor Representative:** The HACSB reserves the right to request a change in the selected firm's representation if, at our discretion, assigned personnel are not satisfying the needs of HACSB.
- **Infringement and Indemnification:** The firm awarded this contract, agrees to protect, defend and hold harmless HACSB against any demand for payment for use of any patented material, process, article, or device that it may enter into the rendering of the necessary services. Furthermore, the selected firm agrees to indemnify and hold harmless HACSB, its Board of Commissioners and employees from any liability whatsoever; including wrongful death, based or asserted upon any act or omission of the bidder, its employees, sub-contractors and agents relating to or in any way connected with the accomplishment of the work or performance of service under this agreement. As part of the foregoing indemnity the successful bidder agrees to carry a minimum Commercial General Liability insurance coverage of \$1,000,000 per each occurrence and naming HACSB as additional insured.
- **Liquidated Damages:** For each day that performance under a resulting contract from this RFP is delayed beyond the time specified for completion, the successful proposer shall be liable for liquidated damages in the amount of \$50.00 per day. However, the timeframe for performance may be adjusted at HACSB's discretion in writing and received by the successful proposer prior to default under any resulting contract.
- **Unacceptable Employees:** If any employee of the Contractor is deemed unacceptable by HACSB, Contractor shall immediately replace such personnel with a substitute acceptable to HACSB.

6. The Authority Reserves the Right to:

- Request an oral interview with and any additional information from firms prior to final selection of the Consultant.

- Consider information about a firm in addition to the information submitted in the response or interview.
- Reject any and all responses and waive any irregularities.
- Negotiate the fees proposed by all proposers. If such negotiations are not, in the opinion of HACSB successfully concluded within a reasonable timeframe as determined by HACSB, HACSB shall retain the right to end such negotiations.
- 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 HACSB.
- Reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to HACSB, 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. HACSB's requirements in good faith change after award of the contract.
- 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.

- **Affirmative Action:** The Offeror warrants adhering to all civil rights, equal opportunity, and fair housing and Section 3 regulations. HACSB 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 HACSB 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. HACSB is an equal opportunity employer and requires its entire contractor to comply with polices and regulations concerning equal employment opportunity.

III. SELECTION PROCESS AND CRITERIA

Evaluation and Selection Criteria for Contract Award

Selection criteria will be based on the following:

CRITERION DESCRIPTION	POINTS
Qualifications, Licensing, and Experience: Provide evidence of past performance and experience in all phases of Housing Authority landscaping maintenance services. List the number of years and various projects that reflect vendor’s experience with Housing Authority and other governmental entities in landscape maintenance services. Describe experience preparing sites for HUD, County, and other agency site inspections. Affirm that your organization is properly licensed for conducting business as a licensed contractor to perform the services.	30
Management and Quality Plan: The proposer must submit a concise description of its managerial capacity to deliver the proposed services, including brief professional resumes for the persons identified to work on this project. Such information shall include the proposer's qualifications to provide the services; a description of the background and current organization of the firm. Provide a plan or procedure to monitor employee’s performance during the contract period.	10
Agency Approach: Quality of the proposal in terms of methodology and approach to the landscaping maintenance services with statement of full understanding of the maintenance objectives and overall scope of work to be performed	10
Timeframe: Able to meet all deadlines specified	10
Price Proposal: Price to provide services	30
Section 3, Minority or Women Owned	10
TOTAL POINTS	100

IV. PROFESSIONAL SERVICES AGREEMENT

A copy of the Housing Authority’s Professional Services Agreement is attached please review. Please provide comments or agreement to the terms listed. (refer to Attachment “E”)

ATTACHMENT “A”

HACSB Properties

(*All Located in Ventura, CA)

Property	Address	Units
AMP 1	Westview including 995 Riverside Street	Executive Office; 108
VDMC	137 Palms	75
	148 Palms	16
	66 Ventura Avenue	53
Johnson Gardens	1055 Johnson	25
	1079 Johnson	25
	9620 Telephone Road	51
Buena Vida	9050 Telephone Road	75
	9054-9092 Telephone	20
Amp 4	10540 Daisy	20
	60-98 Cambria	20
	9808-98800 Jamestown	20
	1050 Partridge	20
	7995 Telephone Rd	20
AMP 5	2400 Ventura Avenue	20
	323-329 Park Row	4
	217-233 Harrison	4
	52-66 Laurel	8
	103-109 Hemlock	4
	1216 Santa Clara	28
	150-166 Santa Cruz	4
	32 Joanne	4
Non Hud	123 Ventura Ave (Rose Garden)	16
	207-215 Vince	3
	1155 N. Olive	5
	1150 North Ventura Avenue (SOHO)	14
	375 E Thompson Blvd (Encanto Del Mar)	28
	11122 Chapel Lane	38
	3005 Main Street (Castillo Del Sol)	40

ATTACHMENT "B"
General Conditions for Non-Construction Contracts

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. 1/01/2014)

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

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

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 968.105) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$100,000 – use Sections I and II.

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

- (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).

- (ii) 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.
- (iii) The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

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

6. Contract Work Hours and Safety Standards Act

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

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

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

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

ATTACHMENT "C"
Instructions to Offerors Non-Construction

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

ATTACHMENT "D"
Certifications and Representations of Offers

Certifications and Representations of Offerors Non-Construction Contract

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

- 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:

ATTACHMENT ‘E’
Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into as of this _____ between the Housing Authority of the City of San Buenaventura, its directors, officers, agents and other representatives (collectively, "HACSB") 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, HACSB is in need of such services;

Now, therefore, HACSB 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 HACSB 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 HACSB.

4. **Compensation.** Contractor shall be paid a rate of \$x 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 HACSB. Contractor shall invoice HACSB 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. HACSB 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 HACSB.

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 HACSB. Contractor shall inform HACSB 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 HACSB, and HACSB 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. HACSB may immediately terminate this Agreement for cause if Contractor fails or refuses to comply with the policies or reasonable directives of HACSB, is guilty of misconduct in connection with performance of his/her services to HACSB, 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. HACSB 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 HACSB without the prior approval of HACSB, 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 HACSB and/or used by HACSB 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 HACSB. 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 HACSB, whether prepared by Contractor or otherwise coming into his/her possession, shall remain the exclusive property of HACSB. Upon the termination of this Agreement, or whenever requested by HACSB, Contractor shall immediately deliver to HACSB 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 HACSB 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 HACSB, as long as such provision of services does not impair Contractor's ability to perform his/her duties to HACSB or pose a conflict of interest or breach of confidentiality for HACSB, in HACSB's sole discretion.

14. Independent Contractor. This Agreement shall not render Contractor an employee, partner, agent of, or joint venture with HACSB for any purpose. Contractor is and will remain at all times an Independent Contractor in his/her relationship to HACSB. Contractor shall not be eligible for and shall have no claim against HACSB 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. HACSB 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 HACSB 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 and insurance necessary for him/her to lawfully and safely perform the duties contemplated hereunder, including without limitation general liability insurance, errors and omissions insurance, professional liability insurance, medical insurance, disability insurance, workers' compensation insurance, business tax license and driver's license as needed.

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 HACSB: xxxxxx
 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. HACSB 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: _____ **Housing Authority of the City of San Buenaventura.**

By: xxxxxxxxxxxxxxxx
Its: xxxxxxxxxxxx

Date: _____ _____

By:
Its:

EXHIBIT A

Scope of Work

EXHIBIT B

TIME AND MATERIALS FEE SCHEDULE