HOUSING AUTHORITY OF CLACKAMAS COUNTY
OREGON CITY, OREGON

REQUEST FOR PROPOSALS
FOR STRATEGIC PLANNING PROCESS AND FACILITATION

ISSUE DATE: MONDAY MARCH 2, 2020

DUE DATE: MONDAY, MARCH 30, 2020, by 4:00 PM
LATE PROPOSALS WILL NOT BE ACCEPTED

Healthy Families. Strong Communities.
P.O. Box 1510, 13930 S. Gain Street, Oregon City, OR 97045-0510 • Phone: (503) 655-8267 • TDD: (503) 655-8639
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REQUEST FOR PROPOSALS
FOR STRATEGIC PLANNING PROCESS AND FACILITATION

The Housing Authority of Clackamas County (HACC) requests proposals from professional consultants to provide Strategic Planning Process and Facilitation.

Issue Date: Monday, March 2, 2020
Closing Date: **Monday, March 30, 2020 by 4 PM**

*Proposals are to be delivered by email **ONLY** to the RFP Contact. Late submittals will not be considered.*

Submit Proposals to: Housing Authority of Clackamas County
Attention: Elizabeth Miller

By email: emiller@clackamas.us

RFP Contact: *For all questions, contact:*
Elizabeth Miller
Administrative Services Manager
Housing Authority of Clackamas County
503-655-8279
emiller@clackamas.us

I. INTRODUCTION

A. Purpose

The Housing Authority of Clackamas County (HACC) requests proposals from qualified and experienced individuals, firms or teams ("Proposers") to conduct an organizational strategic plan. The selected consultant will solicit input from a diverse selection of stakeholders including, but not limited to, external stakeholders, staff, commissioners, resident focus groups and the broader department of Health, Housing & Human Services (H3S). As a result of this solicitation, HACC intends to award a single contract for the provision of Strategic Planning Services as required over the term of the contract. The contract will be begin in **May of 2020.**

B. Housing Authority of Clackamas County

The Housing Authority of Clackamas County (HACC) is a municipal corporation established under ORS Chapter 456, and is considered a component unit of Clackamas County. HACC is a division of the Clackamas County Department of Health, Housing and Human Services (H3S) and is governed by a Board of Commissioners made up of the Clackamas County Board of Commissioners plus two Resident Commissioners, one resident commissioner must receive direct assistance from the Authority; the remaining commissioner must live within Clackamas County. HACC is a high performing agency with an annual operating budget of approximately $25 million, with 545 public housing units, 1,800 Housing Choice Vouchers, & 357 affordable/special needs housing.

C. Project Overview

HACC is seeking an experienced, professional consultant or firm for its strategic planning process to provide the essential elements to guide the direction, focus and scope of services and development of the agency. The strategic plan also explains the importance of the goals, appraises the agency's capabilities, assesses the operating environment, and outlines the process for ongoing evaluations to inform agency actions. The planning should focus on HACC's mission, addressing the affordable housing needs of Clackamas County, incorporating the Performance Clackamas Goals of both the Board of County Commissioners and HACC, Metro Affordable Housing bond goals & the Housing Affordability and Homelessness Task Force, moving towards an efficient and effective business model. The plan is intended to guide HACC's decision making for the next 3 to 5 years.

The Housing Authority Board previously adopted the following development objectives for all redevelopment projects and new construction activities. HACC would like to align the Housing Needs Assessment findings, Performance Clackamas goals and Metro Affordable Housing Bond goals to create new Development objectives that align with internal capacity to develop units as part of the Strategic Plan.

Previously Adopted Goals:

1. Ensure a replacement unit for every Public Housing unit sold or demolished that will serve households earning 30% or less of area median Income (AMI).
2. Build 1,000 new, high quality affordable housing units (serving residents earning 60% or less of AMI) dispersed throughout the County.
3. Provide supportive services to help residents reach their full potential.
4. Commit to transparent and consistent communication with current Public Housing residents as we plan these new communities.
5. We will strive to place new housing within desirable neighborhoods near parks, green space and natural beauty.
6. Whenever possible we will create mixed income communities close to natural resources, public transportation, good schools, jobs and opportunities for the residents.
7. Provide relocation assistance for any household required to move due to a rehabilitation or sale of a public housing community.

II. SCOPE OF SERVICES

A. Scope of Services

HACC's goal is to have strategic planning proceed as expeditiously as possible, include a timeframe for completing the Strategic Plan. The Respondent shall certify its ability to start work and should propose a plan that describes the existing time commitments of the staff proposed to be assigned to the project and whether any of the staff will be locally based. When performing work under the Contract, the selected Contractor(s) must meet the highest standards prevalent in the industry most closely related to the services described below.

The range of services that may be asked to provide may include, but is not limited to, the following:

- Meetings with external stakeholders, staff, commissioners, and resident focus groups.
- Align HACC's updated purpose statement with current Housing Needs Assessment
- Assessment of current organizational goals & recommend goals that align with Housing Needs Assessment and plans to transition away from Public Housing
- Guidance in establishing a five-year strategic plan to meet future goals
- Strategic planning document that is a useful roadmap for commissioners and staff in decision making and the allocation of resources for the future, including an action plan for strategic plan implementation with measurable goals and objectives
- Guide for establishing goals and strategies toward greater alignment of H3S services with housing resources to ensure our ability to align housing with services for hardest to house populations
- Effective and efficient business model for the internal operations of HACC as we reposition our public housing portfolio and prioritize both the development of public housing and the provision of Permanent Supportive Housing.

III. SUBMISSION REQUIREMENTS

A. Minimum Requirements

To be qualified to respond, respondents must not be debarred, suspended, or otherwise ineligible to contract with HACC, and must **not** be included on the General Services Administration's "List of Parties Excluded From Federal Procurement and Non-Procurement Programs" or the Department of Housing and Urban Development's "Limited Denial of Participation" list. In addition, respondents must have current and active registration in the State of Oregon Business Registry.

B. General

Brevity is strongly encouraged. Respond only to items listed below and include only relevant information. The reviewers will not consider materials that are not requested below.
Once submitted, no additions, deletions, or substitutions may be made to written proposals, unless specifically requested by HACC in writing.

C. Submission Requirements

To be considered responsive and responsible, each applicant shall respond to the requirements listed below. Responses must be specific and complete unto themselves. Any submittal that, in the opinion of HACC, does not fully and completely address these requirements will not be reviewed**. Limit your proposal to the equivalent of (20) single-sided pages. Page limit does not include cover letter and/or required attachments.**

1. **Cover Letter**
   Limit letter to a maximum of two (2) pages. Introduce your company and describe your general philosophy and relevant experience for the contemplated work.
2. **Firm Description**
   a. Discuss the organization's history, organization and size including number of staff in each work area.
   b. Describe the overall staffing approach to be used in connection with this contract. Provide information regarding staff experience and qualifications that demonstrates the respondent's capacity to perform the required services. If the firm is multi-disciplinary, please describe the resources and skills it brings. If the firm is small or is a sole proprietorship, please describe the approach to involving 3rd party contractors for task orders requiring multiple disciplines.

c. Identify by name and title, and provide resumes of key personnel who will be assigned to work on Task Orders. Resumes should include specific information regarding experience in providing the types of services outlined in Section I of this RFP.
d. Identify a Project Manager.

3. Similar Project Experience

a. Describe your organization's relevant experience within the areas under Section II, Scope of Services. Please make sure to address all of the headings listed in Section II.
b. Describe in detail two Strategic Plans that your organization is currently working on and/or has completed in the last five years. Describe your Scope of Work for each project.
c. Please describe your organization's approach to managing multiple projects at any one time, and the organization's capacity to address competing project timelines.
d. Please describe your organization's specific experience working with Housing Authorities and/or Public Agencies.

4. References

Provide (3) references, previous and/or current, including the name and title of the contact person, their mailing address, email address, phone number and fax number. If available, please provide one reference from a public housing authority or other public agency.

5. Fee Proposal

Include a fee proposal and schedule that identifies the reasonable hourly fee for services for all staff that might be required for work under the contract resulting from the RFP. The fee schedule shall include all professional services, all administrative costs and a not to exceed amount. Respondents will not be reimbursed for general overhead.

6. Third Party Billings

Please provide the proposed markup (if any, as a percentage of 3rd party billing) to be charged to HACC in such instances.

7. Required Forms

The following forms must be fully completed and signed by the appropriate person and included in the qualifications package:

a. Lobbying Certificate
b. Debarment Certificate
b. Form HUD 5369-B: Instructions to Offerors Non-Construction
c. Form HUD 5369-C: Certifications and Representations of Offerors – Non-Construction Contract
d. Form HUD 5370-C: General Conditions for Non-Construction Contracts

8. Format Requirements

Submittals will only be received by the RFP Contact via email. Please consider this format when assembling the submittal:

a. An 8.5" X 11" format, either vertical or horizontal; and a font size no smaller than 10 points.

IV. EVALUATION

A. Method of Award

HACC will appoint a Selection Committee to evaluate the Proposals. The Committee will evaluate written responses to the RFP and shall apply the evaluation criteria and scoring set forth below. The scores will be used to identify the highest ranked organization(s). The Committee will make its recommendation for contract award to the organization(s) determined to be the most highly qualified based on the ranking.

B. Evaluation Criteria

Submission Requirement	Points
Consultant/ Applicant (Strength & Experience of Team Assigned)	30
Similar Experience	50
Cost	15
References	5
Total	**100**

V. CLARIFICATIONS AND ADDENDA

A. Questions and Comments

Any respondent requiring clarification of the information must submit specific questions or comments to the RFP contact via email. **The deadline for submitting such questions is Monday, March 23, 2020 by Noon,** If in HACC's opinion, additional information or interpretation is necessary; such information will be supplied in the form of an Addendum that will be posted to the HACC website: http://www.clackamas.us/housingauthority/bids.html

Such addenda shall have the same binding effect as though contained in the main body of the Request for Proposals. Oral instructions given to prospective respondents by HACC employees or its agents shall not bind HACC. All Addenda shall be issued by HACC not less than three (3) calendar days prior to the qualifications deadline.

B. Required Information

The successful respondent must be licensed to do business in the State of Oregon and must be licensed (if required by law) to perform the professional services proposed.

C. Minority Business (MBE) Goals

The firm submitting a proposal shall be aware of the HACC goals of consistency with Presidential Executive Orders 11625, 12138 and 12432 and Section 3 of the HUD Act of 1968. The HACC goal is to make efforts to ensure that small and minority-owned business, women's business enterprises, labor surplus area business, and individuals or firms located in or owned in substantial part by persons residing in the area of a HACC project are used when possible.

D. Award of Contract; Clarification or Rejection of Proposals

- HACC will evaluate proposals and will rate proposals using the scoring methodology described in Section IV of this document.
- HACC reserves the right to seek clarification of the written Proposals from respondents.
- HACC reserves the right to reject any and all proposals and to waive any informality in proposals received whenever such rejection or waiver is in the interest of the Housing Authority.
- HACC reserves the right to reject the proposal of any proposer including those who have previously failed to perform properly, or to complete on time, contracts of a similar nature; who is not in a position to perform the contract, or who has neglected the payment of bills or otherwise disregarded their obligations to subcontractors, material suppliers, or employees. HACC also reserves the right to reject the proposal of any proposer listed in the current issue of "List of Parties Excluded from Federal Procurement and Non-procurement Programs" U.S. General Services Administration, Office of Acquisition Policy or listed in the HUD Limited Denial of Participation, current edition.
- Professional services contracts will not have terms exceeding five years without HUD Approval.
- The successful firm shall sign and file with HACC all documents necessary to the successful execution of the contract within thirty calendar days after the notice of award.

E. Right to Protest

Any actual proposer who is adversely affected or aggrieved by HACC's award of the contract to another proposer on the same solicitation shall have fourteen (14) calendar days after notice of intent to award has been issued to submit to the Executive Director a written protest of the award. The written protest shall specify the grounds upon which the protest is based. A protest must meet the requirements of ORS 279B.410. HACC will not entertain protests submitted after the time period established in this rule.

F. Insurance Requirements

Prior to executing a contract, the consultant team shall provide the following documents:

1. Proof of $1,000,000 per occurrence ($2,000,000 general aggregate) general liability insurance,
2. Proof of $1,000,000 automobile liability insurance,
3. Proof of $1,000,000 combined single limit per occurrence ($2,000,000 general annual aggregate) professional errors and omissions liability insurance,
4. Proof of $1,000,000 employers liability insurance,
5. Proof of Worker's Compensation insurance, and

All required insurance other than Professional Liability, Worker's Compensation, and Personal Automobile Liability shall include the "Housing Authority of Clackamas County, its agents, officers, and employees" as an additional insured.

G. Cancellation

HACC reserves the right to cancel or reject any or all Proposals, and to cancel award of this contract at any time before execution of the contract by both parties if cancellation is deemed to be in HACC's best interest. In no event shall HACC have any liability for cancellation of award.

H. Cost of Preparation

Costs incurred by respondents in preparation of a response to this RFP shall be borne by the respondents.

I. References

HACC reserves the right to investigate references including other than those listed in the response to this RFP. Investigation may include past performance of any consultant team member with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, completion or delivery of a project on schedule or on budget, and its lawful payment of subcontractors, employees, and workers. If demanded by HACC, supportive references must be furnished.

J. Confidentiality

Proposals are public records. All information submitted by respondents shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposal for which respondent requests exception from disclosure consistent with Oregon Law. All requests shall be in writing, noting specifically which portion of the proposal the respondent requests exception from disclosure. Respondents shall not copyright, or cause to be copyrighted, any portion of any said document submitted to the HACC as a result of this RFP.

VI. EXHIBITS

A. Lobbying Certificate
B. Debarment Certificate
C. Form HUD 5369-B: Instructions to Offerors Non-Construction
D. Form HUD 5369-C: Certifications and Representations of Offerors – Non-Construction Contract
E. Form HUD 5370-C: General Conditions for Non-Construction Contracts
F. Model Professional Services Contract

- END -

Exhibit A

Lobbying Certificate

The Undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of ANY Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with THIS Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit *Standard Form – LLL, "Disclosure Form to Report Lobbying,"* in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____ Date: _____

Name: _____

Title: _____

NOTE: CONTRACTORS ARE REQUIRED, PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER $100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID $100,000 OR MORE UNDER THIS CONTRACT.

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant	Date
Signature of Authorized Certifying Official	Title

Exhibit C

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:]

Certifications and Representations of Offerors
Non-Construction Contract

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

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:

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Labor Relations
OMB Approval No. 2577-0157 (exp. 1/31/2017)

Exhibit E

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

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

1) **Non-construction contracts** (*without* maintenance) **greater than $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**.

Section I - Clauses for All Non-Construction Contracts greater than $100,000

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

(a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
(b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
(c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.
(d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
(e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
(i) Award of the contract may result in an unfair competitive advantage; or
(ii) The Contractor's objectivity in performing the contract work may be impaired.
(b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
(d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

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

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

(b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.

(c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

(i) The awarding of any Federal contract;

(ii) The making of any Federal grant;

(iii) The making of any Federal loan;

(iv) The entering into of any cooperative agreement; and,

(v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

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

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

(i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;

(ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;

(iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,

(iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

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

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

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

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

(b) Prohibition.

(i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

(a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.

(c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

PROFESSIONAL SERVICES CONTRACT

FOR

INSERT NAME HERE

BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY

Jim Bernard, Chair

Sonya Fischer, Commissioner

Ken Humberston, Commissioner

Martha Schraeder, Commissioner

Paul Savas, Commissioner

Paul Reynolds, Resident Commissioner

PROFESSIONAL SERVICES CONTRACT FOR **INSERT SERVICE HERE**

This "Contract" for professional services is entered into by and between the Housing Authority of Clackamas County, hereinafter referred to as HACC, and **Insert Name,** hereinafter called the CONTRACTOR. HACC and CONTRACTOR, in consideration of the mutual promises, terms and conditions provided herein, agree to the following:

I. SCOPE OF WORK and TERM OF CONTRACT:

This Contract covers the services as described in Attachment "A" which by this reference is hereby incorporated into and made a part of this contract. Work shall be performed in accordance with a schedule approved by the HACC. The term of the contract shall commence upon Contract execution and continue through **insert date here.** Passage of the Contract expiration date shall not extinguish or prejudice HACC's right to enforce this Contract with respect to any default or defect in performance that has not been cured.

II. COMPENSATION:

A. HACC agrees to compensate the CONTRACTOR on a fee-for- services basis as provided for in Attachment "B" which by this reference is hereby incorporated into and made a part of this contract. Invoices submitted for payment in connection with this contract shall be properly documented and shall indicate pertinent HACC contract and/or purchase order numbers. All charges shall be billed monthly and will be paid net 30 days from receipt of invoice. The maximum compensation authorized under this contract shall be **$XXXXXXXXXXX**. CONTRACTOR bears the risk of non-payment for services in excess of the amount stated above without prior HACC approval; but HACC reserves the right to ratify and pay for such services in its sole discretion.

B. The CONTRACTOR is engaged hereby as an independent contractor and will be so deemed for purposes of the following:

1. The CONTRACTOR will be solely responsible for payment of any Federal or State taxes required as a result of this agreement.

2. This contract is not intended to entitle the CONTRACTOR to any benefits generally granted to HACC employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this contract to the CONTRACTOR are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the CONTRACTOR is presently a member of the Public Employees Retirement System).

3. If the CONTRACTOR has the assistance of other persons in the performance of this contract, and the CONTRACTOR is a subject employer, the CONTRACTOR shall qualify and remain qualified for the term of this contract as an insured employer under ORS 656.

4. CONTRACTOR represents and warrants that CONTRACTOR is not an

employee of HACC or of the Federal Government, meets the independent contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of HACC, as those terms are used in ORS 30.260 et. seq.

III. CONSTRAINTS

The CONTRACTOR agrees:

A. CONTRACTOR shall not delegate the responsibility for providing services under this contract to any other individual or agency without the express written permission of HACC.

B. Pursuant to the requirements of ORS 279B.020 and ORS279B.220 through 279B.235, the following terms and conditions are made a part of this agreement:

1. CONTRACTOR shall:

a. Make payments promptly, as due, to all persons supplying to the CONTRACTOR labor or materials for the prosecution of the work provided for in this agreement.

b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in the performance of this agreement.

c. Not permit any lien or claim to be filed or prosecuted against the HACC on account of any labor or material furnished.

2. If the CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing HACC may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the CONTRACTOR by reason of this agreement.

3. Tax Laws

a. The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Agreement, has faithfully complied with:

i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318;

ii. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, to CONTRACTOR's property, operations, receipts, or income, or to CONTRACTOR's performance of or compensation for any work performed by CONTRACTOR;

iii. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, or to goods, services, or

property, whether tangible or intangible, provided by CONTRACTOR; and

iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

4. CONTRACTOR must, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Agreement. Further, any violation of the CONTRACTOR's warranty in this Agreement that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Agreement. Any violation shall entitle HACC to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all remedies available under this Agreement, at law, or in equity, including but not limited to:

a. Termination of this Agreement, in whole or in part;

b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to HACC's setoff right, without penalty; and

c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. HACC shall be entitled to recover any and all damages suffered as the result of CONTRACTOR's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

d. These remedies are cumulative to the extent that remedies are not inconsistent, and HACC may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

5. The CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are incorporated herein by this reference.

All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

6. The CONTRACTOR shall promptly, as due, make payment to any person or partnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the CONTRACTOR, of all sums which the CONTRACTOR agrees to pay for such services and all moneys and sums which the CONTRACTOR collected or deducted from the wages of the CONTRACTOR'S employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

7. The CONTRACTOR shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this contract.

8. The CONTRACTOR shall indemnify, save harmless and defend the HACC, its officers, commissioners, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the negligent acts, errors, omissions, or fault of the CONTRACTOR or the CONTRACTOR'S employees, subcontractors, or agents.

9. Services performed by CONTRACTOR shall be performed in a comparable manner and with the same degree of care, skill, diligence, competency, and knowledge which is ordinarily exhibited and possessed by other professionals in good standing in the same or similar field in the same community as CONTRACTOR.

IV. INSURANCE REQUIREMENTS

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the CONTRACTOR, its agents, representatives, employees, or sub-contractors.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage *(occurrence form CG 0 01 10 01).*
2. Insurance Services Office Additional Insured form *(CG 20 37 or CG 20 26).*
3. Insurance Services Office form number CA 00 01 06 92 covering Automobile Liability, Code 1 *(any auto) [require if scope of work includes driving on HACC property].*
4. Workers' Compensation insurance as required by state law and Employer's Liability Insurance.
5. Professional Errors and Omissions Liability insurance appropriate to the CONTRACTOR's profession.

B. MINIMUM LIMITS OF INSURANCE

CONTRACTOR shall maintain insurance limits of no less than:

1. General Liability: $1,000,000 per occurrence for Bodily Injury, Personal Injury, and Property Damage. (*including coverages for discrimination, ADA violations, and sexual molestation).* If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: $1,000,000 per accident for Bodily Injury and Property Damage.
3. Workers' Compensation *(statutory)* and Employer's Liability: $1,000,000 per accident for Bodily Injury or Disease.
4. Professional Errors and Omissions Liability insurance: $1,000,000 per occurrence.

NOTE: These limits can be attained by individual policies or by combining primary and umbrella policies.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by HACC. At the option of HACC, either: the insurer shall reduce or eliminate such deductibles or self-

insured retentions as respects HACC, its officers, officials, employees, and volunteers; or the CONTRACTOR shall provide a financial guarantee satisfactory to HACC guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

D. OTHER INSURANCE PROVISIONS

The General Liability and Automobile Liability policies are to contain, or endorsed to contain, the following provisions:

1. HACC, its officers, officials, employees, and volunteers are to be covered as additional insured with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR; or automobiles owned, leased, hired, or borrowed by the CONTRACTOR.
2. The CONTRACTOR's insurance coverage shall be primary insurance as respects HACC, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by HACC, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance.
3. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to HACC.
4. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the CONTRACTOR.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+: CONTRACTOR must provide written verification of their insurer's rating.

F. VERIFICATION OF COVERAGE

CONTRACTOR shall furnish HACC with original certificates and amendatory endorsements effecting coverage required by these specifications. The endorsements should conform fully to the requirements. All certificates and endorsements are to be received and approved by HACC in sufficient time before the agreement commences to permit CONTRACTOR to remedy any deficiencies. HACC reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

G. SUB-CONTRACTORS' INSURANCE

CONTRACTOR shall include all sub-contractors as insured's under its policies or shall furnish separate insurance certificates and endorsements for each sub-contractor in a manner and in such time as to permit HACC to approve them before sub-contractors' work begins. All insurance coverages for sub-contractors shall be subject to all of the requirements stated above.

Notwithstanding this provision, CONTRACTOR shall indemnify HACC for any claims resulting from the performance or non-performance of the CONTRACTOR's sub-contractors and/or their failure to be properly insured.

V. <u>SUBCONTRACTORS:</u>

Use of sub-contractors must be pre-approved in writing by HACC. The CONTRACTOR shall be responsible to HACC for the actions of persons and firms performing subcontract work. The CONTRACTOR certifies that the CONTRACTOR has not discriminated and will not

discriminate against any minority, women or emerging small business enterprise in obtaining any subcontract.

VI. OTHER TERMS:

A. Termination. This contract may be terminated by either party upon at least ten (10) days written notice to the other.

B. Amendments. This contract and any amendments to this contract will not be effective until approved in writing by an authorized representative of HACC.

C. Governing Law/Venue. This contract shall be governed by the laws of the State of Oregon. Any action or suit commenced in connection with this contract shall be commenced in the Circuit Court of Clackamas County or the Federal District Court for Oregon.

D. Third Party Beneficiaries. HACC and CONTRACTOR are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, or is intended to give, any right or benefit to any third persons unless such third persons are identified individually by name herein and expressly identified as intended beneficiaries of this contract.

E. Force Majeure. Neither HACC nor CONTRACTOR shall be held responsible for delay or default caused by fire, riot, terrorism, strikes, acts of god, or war, where such cause was beyond their reasonable control. The parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of their obligations under this contract.

F. Survival. The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.

G. Records. CONTRACTOR shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, CONTRACTOR shall maintain any other records pertinent to this contract in such a manner as to clearly document CONTRACTOR'S performance hereunder. Contactor shall maintain any such records for a minimum of three years following final payment and termination of this contract, and CONTRACTOR shall allow HACC and its duly authorized representative's access to such records during that time or until the conclusion of any audit, controversy or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions.

H. Ownership and Use of Documents. All work products of CONTRACTOR which result from this contract (the "work products"), except material previously and mutually identified as confidential, shall be provided to HACC upon request and shall be considered exclusive property of HACC. In addition, if any of the work products contain intellectual property of CONTRACTOR that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, CONTRACTOR hereby grants HACC a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so for HACC purposes, all such work products, including but not limited to any information, designs, plans or works provided or delivered to HACC or produced by CONTRACTOR under this contract.

I. Whole Contract. This contract constitutes the complete and exclusive statement of the

contract between the parties relevant to the purpose described herein and supersedes and cancels any prior contracts or proposals, oral or written, and all other communication between the parties relating to the subject matter of this contract. No waiver, consent, modification of change of terms of this contract will be binding on either party except as a written addendum signed by authorized agents of both parties.

J. Representations and warranties. Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

K. Severability. If any provision of this Contract is declared by a court to be unenforceable, illegal, or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

L. Waiver. Failure of the Owner to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

M. Time is of the Essence. Time is of the essence for this Contract.

N. Counterparts. This Contract may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

By their signatures below, the parties to this contract agree to the terms, conditions, and content expressed herein.

_____
Authorized Signature

_____
Name / Title Printed

_____
Date

_____
Telephone / Fax Number

_____
Federal Tax ID Number

HOUSING AUTHORITY OF CLACKAMAS COUNTY

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader
Resident Commissioner Paul Reynolds

DATED this_____day of (month), 2017 BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary