



MARION COUNTY HOUSING AUTHORITY

REQUEST FOR QUALIFICATIONS

CONSULTANT OF RECORD (COR) TO PROVIDE LAND SURVEYING SERVICES ON A CONTINUING SERVICE BASIS

RFP No. 2024-02Q

Release Date: April 18, 2024

Closing Date & Time: May 7, 2024 at 4:00PM (PDT)

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Submit Proposals to: Housing Agency Marketplace
<https://ha.internationaleprocurement.com/>

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1. INTRODUCTION

Marion County Housing Authority (“MCHA” or “Owner”) requests Proposals from qualified firms to provide comprehensive professional surveyor services on an as-needed basis for a five-year period.

As a result of this solicitation, MCHA intends to enter into an agreement with up to three Surveyors as Consultants of Record who can provide the complete range of professional surveyor services. It is estimated that the services will be provided on an as-needed basis for a time period of five years, beginning in May 2024. Due to the as-needed nature of the work, no work is guaranteed on a contract, even if awarded. The contract will be for an amount not to exceed an annual amount of \$175,000 and a maximum amount (over the five-year period) of \$875,000.

2. BACKGROUND

MCHA owns and manages 270 housing units over 11 properties; funding sources for these units include United States Department of Agriculture (USDA) Rural Development, Housing and Urban Development (HUD) Multifamily Project Based Section 8, Low Income Housing Tax Credits and HOME. MCHA does not own or operate units under the Public Housing program.

2.1 PROJECT OVERVIEW

MCHA seeks to establish contractual relationships for the provision of surveying services as needed for specific projects. See Section 5 for a description of the required services.

The scope of Consultant services to be delivered over the five-year term will be for a variety of projects including new construction or renovation projects on vacant unimproved land, large master-planned communities or urban properties within Marion County.

3. CONTRACT TERM AND FINANCING

The Contract is anticipated to start May 20, 2024, and end on May 21, 2029.

4. SCHEDULE OF EVENTS

MCHA will conduct the procurement in accordance with Marion County Housing Authority Public Contracting Rules. (MCHA reserves the right to change the below schedule):

- a. April 18, 2024 Begin RFQ Solicitation
- b. April 25, 2024 Questions/Change Requests to MCHA by 4:00 PM
- c. April 30, 2024 MCHA Issues Responses/Addendum (if necessary)
- d. May 07, 2024 RFQ Closing Date @ 4:00 PM (local time)
- e. May 14, 2024 Review Proposals and Select Consultant; Notice of Intent to Award Contract

5. **SCOPE OF WORK**

When performing work under the Contract, the selected Consultant must meet the highest standards prevalent in the industry most closely related to the services described below.

The scope of work for this contract will vary as need arises and will be at the discretion of MCHA. Survey requests may be, but not limited to, topographic surveys, property line surveys, easement surveys and utility surveys. Requested services may be, but are not limited to:

- Check subdivision and parcel maps for compliance with appropriate jurisdiction.
- Stamp and sign subdivision maps, parcel maps, lot line adjustments and other documents as necessary.
- Confirm or furnish a legal description that conforms to the Record Title Boundaries. Reconcile or explain any discrepancies between survey and the recorded legal description.
- Manage recording process with the County or appropriate jurisdiction.
- Prepare boundary surveys depicting property lines, easements, adjacent rights-of-way and structural improvements:
 - Show boundary lines, giving length and bearing. Identify, location, size, character and type of any monuments found during fieldwork. Where no monument exists, set permanent iron pin or other suitable permanent monument at property corners.
 - Show recorded or otherwise known easements and rights-of-way on or across the surveyed property. State the owner of right of each. Note anticipated street widenings.
 - Indicate the name of any street, highway or other public or private way abutting the surveyed property, along with the width, type of pavement and the location of each edge of the right-of-way. If the property does not abut a right-of-way, identify the distance from the appropriate corner or corners of the surveyed property to the nearest right-of-way line.
 - Plot location of structures and other improvements on the property and the adjacent property within certain distance. Improvements include buildings, walls, fences, etc. Dimension perimeters in feet and inches to nearest ½". State the character and number of stories. Dimension to property lines and other buildings.
 - Identify the location and extent of any potentially encroaching driveways, means of access, structural improvements or appurtenances/projections from adjoining properties.
- Prepare topographic surveys:
 - Identify and document appropriate contour or spot elevation spacing of site improvements and landscaped areas.
 - Include floor elevations and elevations at each entrance of buildings on the property.
- Prepare utility plans:
 - Identify location, size, depth and pressure of water and gas mains and other utilities serving and/or crossing the property including, but not limited to buried tanks and septic fields serving or on the property. Locate meters, vaults and points of connection.
 - Locate fire hydrants available to the property and the size of the main serving each.

- Plot location and characteristics of power and communications systems above and below grade. Indicate power poles.
- Plot location, size, depth and direction of flow of sanitary sewers, combination sewers, storm drains, and culverts serving or on the property. Locate catch basins and manholes and inverts or pipe at each.
- Identify trees and/or landscaping as needed per jurisdictional requirements.

6. ANTICIPATED CONTRACT TASKS

As projects proceed and surveying services are required, MCHA staff will contact the selected Consultant to provide a project-specific scope of work and cost proposal. All costs for services under this contract shall be based on established hourly rates or unit prices. Once a scope of work and costs has been finalized by MCHA and the Consultant, a written Project Assignment will be issued authorizing the Work. Project Assignments will be issued by email; oral Project Assignments will not be utilized.

7. MINIMUM REQUIREMENTS

To be qualified to respond, firms must possess at least five (5) years of recent and relevant experience.

In addition, respondents must not be debarred, suspended, or otherwise ineligible to contract with MCHA, 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. Firms must be licensed (if required by law) based on professional discipline.

8. INSTRUCTIONS TO PROPOSERS

Proposals must be submitted via the Procurement Collaboration Portal prior to the time and date set forth in Section 4: Schedule of Events. Instructions for MCHA's online Procurement Portal can be found in Section 9.

It is the Proposer's responsibility to ensure that proposals are submitted prior to the stated submission deadline. Pursuant to MCHAPCR 20-0460, MCHA shall not consider late offers, withdrawals, or modifications, except as permitted in MCHAPCR 20-0470 or 20-0261.

The proposal must include information responsive to items (a) through (e) set forth below. The proposal content pages as outlined in Section 10.a. inclusive of items (b) through (d) may not exceed a total of fifteen (15) 8.5" x 11" pages, not including cover letter, any table of contents and required attachments. Proposals shall be Microsoft 365 compatible or searchable Adobe format. Proposals exceeding 15 pages will be truncated and only the first 15 pages will be evaluated. Items (f) will be addressed in supporting documentation as outlined in Section 10 and not included in the page limit.

Proposers must include the following as part of their proposal:

a. Cover Letter. (1 page maximum)

The proposal must be submitted with a cover letter describing the proposer's interest and commitment to the proposed project. The letter must include the name, title, address, and telephone number of the individual to whom correspondence and other contacts should be directed during the selection process. The person authorized by the proposer to negotiate a contract with the Housing Authority must sign the cover letter. The narrative should include a statement that the Proposer, if selected, can provide the scope of services detailed in the RFQ and will comply with all applicable federal, state, and local laws and regulations. Cover letter does not count against the page limit.

b. Firm Description.

- Discuss the firm's history, organization and size including number of staff in each work area. Indicate whether your business is a minority, women or emerging business and provide certification number.
- Provide resumes of key personnel to be used for this Contract. Include title and relevant project experience.
- 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 disciplines beyond your firm's capabilities.
- Identify a Project Manager for the firm.
- Provide location of central office and any satellite offices.
- Provide firm's current fee schedule, including hourly rates and base fees, for Project Surveyor, Two Person Survey Crew, Survey Technician, Utility Locate Fees, and any other fees that may be relevant to potential survey projects needed by MCHA. (Note: Price is not an evaluation factor.)

c. Similar Project Experience.

- Describe your firm's relevant experience within the areas under Section 5, Scope of Services.
- Please describe your firm's specific experience working with Housing Authorities and/or Public Agencies.

d. References.

Provide (3) references, previous and/or current. If available, please provide one reference from a public housing authority or other public agency. References shall include the following information:

- Name, title, mailing address and current phone number of contact.
- Description of services provided and date the project was completed.

f. Required Attachments.

The proposer is required to submit the following forms which are included as attachments to this RFQ. (These Attachments will not be included in the total page count.)

Attachment 1: Trade Secret Form (Optional)

Attachment 2: Certification of Primary Participant Regarding Debarment, Suspension, and other Responsibility Matters

9. **RESPONSE INSTRUCTIONS**

- a. **Log Into MCHA's online procurement portal: Housing Agency Marketplace**
 - i. Go to the MCHA Procurement Portal, which can be found at:
https://ha.internationaleprocurement.com/requests.html?company_id=71014
 - ii. Register your company or login if you've previously registered your company through the Housing Agency Marketplace.
 - iii. It is recommended that you complete registration for your company at least 15-30 minutes before submitting documents through the portal.
 - iv. Complete instructions for registering and using the Housing Agency Marketplace are attached as Exhibit #3.
 - v. Customer support is available, if needed, for the Housing Agency Marketplace by calling (866) 526-9266, Monday through Friday 6:00am to 4:00pm, or by email at support@internationalprocurement.com
 - vi. There is no cost to the proposer to register and use the Housing Agency Marketplace.

10. **PROPOSAL SUBMISSION FORMAT INSTRUCTIONS**

Files need to be named and proposals need to be structured and uploaded into the Housing Agency Marketplace portal as follows:

- a. Submission File naming convention should be as follows (without the brackets):
[vendor name] - proposal.pdf
This document is to include the following sections:
 - o 8.a Cover Letter
 - o 8.b Firm Description
 - o 8.c Similar Project Experience
 - o 8.d References
- b. **[vendor name] – forms and attachments.pdf**
This document is to include the following sections:
 - o Attachment 1: Trade Secret Form (optional)
 - o Attachment 2: Certification of Primary Participant Regarding Debarment, Suspension, and other Responsibility Matters

11. **CONTRACT FORM**

By submitting a proposal, proposer agrees to comply with the requirements of the RFQ, including the terms and conditions of the MCHA Professional Services Contract (Exhibit 1). Proposer shall review the attached MCHA Contract and note exceptions. Unless Proposer notes exceptions in its proposal, MCHA intends to enter into a MCHA Professional Services Contract with the successful Proposer substantially in the form set forth in the MCHA Professional Services Contract (Exhibit 1). It may be possible to negotiate some provisions of the final MCHA Professional Services Contract. Proposer is cautioned that MCHA believes modifications to the standard provisions constitute increased risk and increased cost to MCHA. Therefore, MCHA will consider the Scope of requested exceptions in the evaluation of proposals.

Any proposal that is conditioned upon MCHA’s acceptance of any other terms and conditions may be rejected. Any subsequent negotiated changes are subject to prior approval of MCHA’s Legal Counsel.

In the event that the parties do not reach mutually agreeable terms, MCHA may terminate negotiations and commence negotiations with the next highest-ranking proposer.

12. **EVALUATION**

a. **Minimum Responsiveness.**

In order to be considered responsive, each proposal must address the minimum criteria as established in this RFQ. Failure to meet minimum responsiveness may result in rejection of the proposal. Each proposal must comply with Section 8: Instructions to Proposers and include the following to be considered minimally responsive:

Cover Letter

Firm Description

Similar Project Experience

Resumes

Attachment 1: Trade Secret Form (optional)

Attachment 2: Certification of Primary Participant Regarding Debarment, Suspension, and other Responsibility Matters.

b. **Categories.**

The evaluation criteria and their respective weights are as follows:

Criteria		Maximum Points
8.a	Cover Letter	Pass / Fail
8.b	Firm Description	35
8.c	Similar Project Experience	40
8.d	Resumes	10
8.e	Clarity and Conciseness of Proposal	5
8.f	MWESB	10
Total Points Possible:		100

c. Evaluation Committee Scoring.

MCHA Evaluation Committee (MCHA-EC) will evaluate sections 8b through 8f of all responsive proposals. The MCHA-EC will be composed of MCHA staff and other parties that may have relevant expertise or experience. The MCHA-EC will score and recommend proposals in accordance with the evaluation criteria set forth in this RFQ. Evaluation of the proposals shall be within the sole judgment and discretion of the MCHA-EC.

13. NOT USED

14. AWARD NOTICE AND ACCEPTANCE PERIOD

- a. MCHA will select the proposal that is most advantageous to MCHA and the public. MCHA reserves the right to expand or reduce the proposed scope of work during the contract negotiations based on budget constraints or other mitigating factors.
- b. After the evaluation of proposals and final consideration of all available pertinent information, MCHA will either reject all proposals or issue a written notice of intent to award the contract. The notice shall identify the apparent best evaluated proposal and the notice shall be provided to all proposers submitting a timely proposal. The notice shall not create any rights, interests, or claims of entitlement in the apparent highest evaluated proposer.
- c. The apparent highest evaluated proposer should be prepared to enter into a contract with MCHA which shall be substantially the same as the Professional Services Contract in Exhibit 1 to this RFQ. Notwithstanding, MCHA reserves the right to add terms and conditions, deemed to be in the best interest of MCHA, during final contract negotiations.
- d. If a proposer fails to promptly sign and return the contract drawn pursuant to this RFQ and final contract negotiations, MCHA may cancel the award and award the contract to the next highest evaluated proposer.

15. PROTEST AND APPEALS

A proposer may protest the award of a contract or the intent to award a contract, whichever comes first, if the conditions set forth in ORS 279B.410(1) are satisfied. The protest must be submitted via email to the Procurement Coordinator at procure@mchaor.org within seven (7) days after issuance of the notice of intent to award the contract. Please mark the email subject line “**Protest for Surveyor RFQ**”.

All letters of protest shall clearly identify the reasons and basis for the protest. The Executive Director of MCHA, serving as the agency’s Contracts and Procurement Manager will issue a written disposition in a timely manner as set forth in ORS 279B.410(4), which shall include the reason for the action taken and the process for appealing the decision. A proposer must file a written protest with MCHA and exhaust all administrative remedies before seeking judicial review of MCHA’s contract award decision.

16. TERMS AND CONDITIONS

- a. **The Marion County Housing Authority and the Marion County Public Contracting Rules** found at <https://www.co.marion.or.us/HA> and <https://www.co.marion.or.us/FIN/Pages/contracts.aspx> govern this RFQ.

b. RFQ Amendment, Cancellation and Right of Rejection.

- i. MCHA reserves the unilateral right to amend this RFQ in writing at any time by posting the addendum on the MCHA procurement portal: Housing Agency Marketplace. MCHA may extend the deadline for submission of proposals by written addendum. Proposers are responsible to view the website periodically for any addendum to the RFQ. Addenda, if necessary, will be issued not later than five (5) business days prior to the RFQ closing date. Addenda shall be signed by the same individual that signs the proposal and SHALL BE SUBMITTED with the proposal. Proposers shall respond to the final written RFQ, its exhibits and attachments, and all addenda. Proposals received without properly signed addenda will be considered non-responsive. MCHA also reserves the right, in its sole discretion, to reject any and all proposals or to cancel or reissue the RFQ.
- ii. A prospective Proposer may submit a written protest to an addendum within 48 hours by the close of MCHA's next business day after issuance of the addendum. The written protest shall (1) Sufficiently identify the addendum being protested; (2) Identify the specific grounds that demonstrate how the addenda is contrary to law, unnecessarily restrictive, legally flawed or improperly specifies a brand name; (3) Include evidence or supporting documentation that supports the grounds on which the protest is based; (4) Identify the relief sought; and (5) Include a statement of the desired changes to the addendum that the prospective Proposer believes will remedy the conditions upon which the bidder based its protest. MCHA will not consider a protest to matters not added or modified by the protested addendum. Protests of addenda shall be submitted to the attention of the Contract Administrator.
- iii. MCHA reserves the right, in its sole discretion, to waive minor informalities in proposals provided such action is in the best interest of MCHA. Where MCHA waives minor informalities in proposals, such waiver does not modify the RFQ requirements or excuse the applicant from full compliance with the RFQ. Notwithstanding any minor variance, MCHA may hold any proposal to strict compliance with the RFQ.

c. Confidentiality.

MCHA will retain a master copy of each proposal to this RFQ, which becomes public record after the notice of intent to award unless the proposal or specific parts of the proposal can be shown to be exempt by law under ORS Chapter 192. If a proposer believes that any portion of its proposal contains any information that is a trade secret under ORS 192.311-431 or otherwise is exempt from disclosure under the Oregon Public Records Law, that proposer shall complete and submit the Attachment 2: Trade Secret Form and a fully redacted version of its proposal.

Proposer is cautioned that cost information generally is not considered a trade secret under Oregon Public Records Law and identifying the proposal as confidential, in whole or in part, as exempt from disclosure is not acceptable. MCHA advises each proposer to consult with its own legal counsel regarding disclosure issues. If proposer fails to identify the portions of the proposal that proposer claims are exempt from disclosure, proposer has waived any future claim of non-disclosure of that information.

d. Cost/Price Analysis

MCHA shall perform or have performed a cost/price analysis for each Proposal considered for award. To comply with federal guidelines, Proposers may be required to supply additional pricing information. Additional information may include personnel cost elements, including direct salary, overhead, direct non-salary, and proposed profit. Failure to submit accurate cost data upon request, or to allow MCHA to verify the same, may result in rejection of the Proposal.

Cost/price information submitted must meet three critical tests. The costs must be: (1) Allowable, (2) Allocable, and (3) Reasonable according to federal cost/price principles as set forth in HUD Handbook No. 7460.8 REV 2 and in accordance with the evaluation criteria set forth elsewhere in this solicitation.

e. Proposer Responsible for Incurred Costs.

MCHA shall not be liable for any expenses incurred by proposer in both preparing and submitting its proposal or contract negotiation process, if any.

f. Acceptance of Proposal Content.

The contents of the Proposal of the successful Proposer(s) will become contractual obligations if acceptance action ensues. Failure of the successful Proposer(s) to accept these obligations in a contract may result in cancellation of the award.

g. Human Rights

MCHA assures that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal funds on the grounds of race, color, national origin, sex, age, disability or income, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Aid Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and 13166.

Further, MCHA assures that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any MCHA program or activity, whether those programs and activities are federally funded or not, on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income.

Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and, Title VI of the Civil Rights Act of 1964 and other federal non-discrimination laws.

h. Discrimination in Subcontracting Prohibited

Further, Proposer agrees not to discriminate against disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business owned by a service-disabled veteran, or an emerging small business certified under ORS 200.055 in awarding subcontracts as required by ORS 279A.110.

i. Incurred Costs

Neither MCHA, nor its officers, agents, or employees are liable for any cost incurred by Proposer(s) prior to issuance of an agreement, contract, or purchase order. All prospective Proposer(s) who respond to this RFQ do so solely at the Proposer's cost and expense.

j. Right to Audit

The successful Proposer(s) shall maintain financial records and other records as may be prescribed by MCHA or by applicable federal and state laws, rules, and regulations. The successful Proposer(s) shall retain these records for a period of five years after final payment, or until they are audited by MCHA, whichever event occurs first. These records shall be made available during the term of the contracts and the subsequent five-year period for examination, transcription, and audit by MCHA, its designees, or other authorized bodies.

k. Accept or Reject Proposals

MCHA reserves the right to accept or reject any or all Proposals in response to this RFQ without cause or to delay or cancel this RFQ process without liability to MCHA if MCHA determines it is in the public interest to do so.

l. Additional Information

MCHA reserves the right to request additional information following their initial review of the Proposal documents that MCHA deems reasonably necessary to evaluate, rank, and select the most qualified Proposer(s). MCHA staff may conduct a review and verification of confidential information with staff and consultants.

m. Right to Modify Process

MCHA reserves the right to modify the selection process or other aspects of this RFQ process at its sole discretion. MCHA will take reasonable steps to ensure that any modification or clarification to the RFQ shall be distributed in writing to all persons who have requested a copy of the RFQ through the MCHA, and those persons who have registered as "intends to respond" in the MCHA Procurement Portal (Housing Agency Marketplace).

n. Debarment of Proposer

MCHA may debar prospective Proposers from consideration for contracts for a period of not more than three years if:

- i. The prospective Proposer has been convicted of a criminal offense as an incident in obtaining or attempting to obtain a public or private contractor subcontract or in the performance of such contract or subcontract;
- ii. The prospective Proposer has been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the prospective Proposer's responsibility as a contractor;
- iii. The prospective Proposer has been convicted under state or federal antitrust statutes;

- iv. The prospective Proposer has committed a violation of a contract provision and debarment for such a violation was listed in the contract terms and conditions as a potential penalty. A violation may include, but is not limited to, a failure to perform the terms of a contract or an unsatisfactory performance of the terms of the contract. A failure to perform or an unsatisfactory performance caused by acts beyond the control of the contractor may not be considered as a basis for debarment; or
- v. The prospective Proposer does not carry workers' compensation or unemployment insurance as required by applicable law.

MCHA shall give written notice of the reasons for the debarment and the proposed length of debarment to the person for whom debarment is being considered. The Proposer shall be given not less than fourteen (14) days to respond to the Contract Administrator in writing. The Contract Administrator shall issue a written decision that states the reason for the action taken and that informs the Proposer of the Proposer's appeal rights.

o. Proposals Submitted by MCHA Employees Prohibited

MCHA will not purchase any goods or services from MCHA employees unless Housing Authority Board expressly authorizes the purchase, or the purchase is necessary during a state of emergency and the Executive Director approves the purchase.

p. Collusion

By submitting a Proposal, the Proposer thereby certifies that no officer, agent, or employee of MCHA has a pecuniary interest in the Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer; that the Proposer is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.

q. Publicity

Any publicity giving reference to this Project, whether in the form of press releases, brochures, photographic coverage, or verbal announcement, shall be only with the general or specific approval of MCHA.

r. Disputes

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of the RFQ, the decision of MCHA shall be final and binding upon all parties.

s. Contract Conditions

- i. Non-Discrimination in Employment: The successful Proposer's attention is directed to the provisions of Oregon Revised Statutes Chapter 659, prohibiting discrimination in employment.
- ii. Civil Rights Laws and Anti-Discrimination: The successful Proposer must comply with all applicable requirements of federal and state civil rights laws and statutes, including, but not limited to, Title VI of the Civil Rights Act of 1964 related to non-discrimination in housing, the Fair Housing Act, the Age Discrimination Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973.

iii. Insurance Requirements: Failure of MCHA to demand insurance certificates as specified in the attached sample contract or other evidence of full compliance with the insurance requirements or failure of MCHA to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.

1. **Workers' Compensation.** The Contractor shall purchase and maintain workers' compensation coverage sufficient to meet statutory liability limits.
2. **Employer's Liability.** The Contractor shall purchase and maintain employer's liability insurance in addition to its workers' compensation coverage.
3. **Commercial General Liability.** The Contractor shall purchase and maintain commercial general liability ("CGL") insurance on an occurrence basis, written on ISO Form CG 00 01 (12 04 or later) or an equivalent form approved in advance by the Owner. CGL coverage shall include all major coverage categories, including bodily injury, property damage, and products/completed operations coverage maintained for at least six (6) years following Final Payment. The CGL insurance must also include the following: (1) separation of insureds and (2) per-project aggregate.
4. **Professional Liability.** To the extent that the Contract Documents require the Contractor to provide professional design services or certifications related to systems, materials, or equipment, the Contractor shall (1) purchase and maintain professional liability/errors-and-omissions insurance and (2) cause those Subcontractors providing professional design services or certifications related to systems, materials, or equipment to do so under the requirements.
5. **Automobile Liability.** The Contractor shall purchase and maintain automobile liability insurance with coverage for owned, hired, and non-owned vehicles on ISO Form CA00 01 or an equivalent form approved in advance by the Owner. The automobile liability insurance or the CGL insurance shall include pollution liability coverage with vehicle overturn and collision.
6. **Commercial Umbrella/Excess Coverage.** The Contractor shall purchase or maintain commercial umbrella or excess liability insurance to meet the minimum limits as described below. Commercial umbrella/excess liability coverage includes: (1) "Pay on behalf of" wording; (2) concurrency of effective dates with primary coverage; (3) punitive damages coverage (if not prohibited by law); (4) application of aggregate (when applicable) in primary coverage; and (5) drop-down feature. The third-party liability insurance shall be scheduled to the umbrella/excess coverage.
7. **Limits**
 - **Workers' Compensation:** Statutory Limits
 - **Employer's Liability:**
 - Each Accident: \$1,000,000
 - Each Bodily Injury Disease: \$1,000,000
 - Aggregate Bodily Injury Disease: \$1,000,000
 - **Commercial General Liability:**
 - Each Occurrence: \$10,000,000
 - General Aggregate: \$10,000,000
 - Product/Completed Operations: \$10,000,000

Personal & Advertising Injury: \$2,000,000

- **Professional Liability/E&O:**
Each Claim/Aggregate: \$2,000,000
- **Automobile Liability:**
Combined Single Limit: \$2,000,000

- iv. Laws of the State of Oregon: The resulting contract will be entered into within the State of Oregon and the law of said state, whether substantive or procedural, shall apply to the contract. All statutory, charter, and ordinance provisions that are applicable to public contracts in the MCHA and the State of Oregon shall be followed with respect to the contract.
- v. Federal Requirements: This procurement may be funded, in whole or in part, by grant funds provided by HUD. This procurement and subsequent contract shall be governed by applicable federal laws and regulations relating to third party contracts.

t. Forfeiture of the Contract

This contract may be canceled at the election of MCHA at any time for any willful failure or refusal by the Proposer(s) to perform according to the terms of a contract or agreement as herein provided.

u. Proposer's Forms

Any additional forms that the Proposer expects to submit to MCHA at a later date for signature may not conflict with the intent or specifics of this RFQ and, although they will not be evaluated, they must be submitted with the Proposal. Any such form must include the contract terms identified in the RFQ.

Examples of these forms include, but are not limited to, the following:

- Agreement form(s)
- Supplemental agreement forms
- Ordering forms
- Work order forms
- Software licensing agreements, if applicable

Submission of any such forms shall not be considered a waiver or amendment to any RFQ requirement and any Proposal conditioned upon acceptance of any such forms shall be considered non-responsive. MCHA in its sole discretion may approve the form, require modifications, or reject the forms.

v. Form of Procurement Contract

Any procurement contract that is awarded as a result of this RFQ will incorporate the RFQ document, the successful Proposer's written Proposal, any required certificates, and all other documents incorporated by reference therein.

It is MCHA's intent to award contracts in substantially the form of the Agreement attached as Exhibit 1. Proposer may submit an alternative Agreement for MCHA's review. MCHA, at its sole

determination, may approve the Proposer's offered Agreement as is, require modifications, or reject the Proposer's Agreement and require that MCHA's contracts be executed for the purpose of this procurement.

A Proposer may not condition its Proposal on execution of any Agreement it submits. Any such condition shall result in rejection of the Proposal.

w. Order of Precedence

In the event of conflicts, inconsistencies, discrepancies, or ambiguities between or among the Contract Documents, interpretations shall be based on the following order of precedence:

- i. Modifications of the contract with those of a later date having precedence over those of an earlier date.
- ii. Marion County Housing Authority Request for Proposals with Addenda.

x. Resident Proposer

The MCHA shall, pursuant to ORS 279A.120, for the purposes of awarding the contract, add a percent increase on the proposal of a nonresident proposer equal to the percent, if any, of the preference given to that proposer in the state in which the proposer resides.

"Resident proposer" means a proposer that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the proposal, has a business address in this state and has stated in the proposal whether the proposer is a "resident proposer".

y. Contract Administrator

MCHA's Contract Administrator for the services required within this RFQ will be Jason Icenbice, Marion County Housing Authority, who may be reached at telephone 503-584-4775 or by email: jicenbice@mchaor.org

17. ATTACHMENTS AND EXHIBITS

- Attachment 1: Trade Secret Form (optional)
- Attachment 2: Certification of Primary Participant Regarding Debarment, Suspension, and other Responsibility Matters

- Exhibit 1: MCHA Professional Services Contract
- Exhibit 2: Form HUD 51915a Contract Provisions Required by Federal Law or Owner Contract with the US Department of Housing and Urban Development
- Exhibit 3: HUD-5370-C General Conditions for Non-Construction Contracts
- Exhibit 4: HUD-5369-B Instructions to Offerors, Non-Construction
- Exhibit 5: MCHA Procurement Portal: Vendor Registration Instructions

18. PROPOSAL SUBMISSION CHECKLIST FOR PROPOSERS

- Cover Letter
- Firm Description
- Similar Project Experience
- Resumes

- Attachment 1: Trade Secret Form (optional)
- Attachment 2: Certification of Primary Participant Regarding Debarment, Suspension, and other Responsibility Matters.

ATTACHMENT 2 –TRADE SECRET FORM

1. I am an employee of the Proposer, I have knowledge of the Request for Proposals referenced herein, and I have full authority from the Proposer to submit this Trade Secret Form and accept the responsibilities stated herein.
2. I am aware that the Proposer has submitted a Proposal, dated on or about _____ (the “Proposal”), to the Marion County Housing Authority in response to Request for Qualifications 2024-02Q, for Surveyor On-Call Services and I am familiar with the contents of the RFQ and Proposal.
3. I have read and am familiar with the provisions of Oregon’s Public Records Law, Oregon Revised Statutes (“ORS”) 192.410 through 192.505, and the Uniform Trade Secrets Act as adopted by the State of Oregon, which is set forth in ORS 646.461 through ORS 646.475. I understand that the Proposal is a public record held by a public body and is subject to disclosure under the Oregon Public Records Law unless specifically exempt from disclosure under that law.
4. I have reviewed the information contained in the Proposal. The Proposer believes the information listed in Exhibit A is exempt from public disclosure (collectively, the “Exempt Information”), which is incorporated herein by this reference. It is my opinion that the Exempt Information constitutes “Trade Secrets” under either the Oregon Public Records Law or the Uniform Trade Secrets Act as adopted in Oregon because that information is either:
 - A. A formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that:
 - i. is not patented,
 - ii. is known only to certain individuals within the Proposer’s organization and that is used in a business the Proposer conducts,
 - iii. has actual or potential commercial value, and
 - iv. gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

or

 - B. Information, including a drawing, cost data, customer list, formula, pattern, compilation, program, device, method, technique, or process that:
 - i. Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
 - ii. Is the subject of efforts by the Proposer that are reasonable under the circumstances to maintain its secrecy.
5. I understand that disclosure of the information referenced in Exhibit A may depend on official or judicial determinations made in accordance with the Public Records Law.

Proposer Signature

EXHIBIT A

Proposer identifies the following information as exempt from public disclosure:

**CERTIFICATION ON PRIMARY PARTICIPANT
REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant (Potential Contractor for a major third-party contract), certifies to the best of its knowledge and belief, that it and its principles:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
2. 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; 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;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. 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.

(If the primary participant is unable to certify to any of the statements in this certification, the participants shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT, (POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT, CERTIFIES OR AFFIRMS THAT TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTION 3801 ET SEQ ARE APPLICABLE HERETO.

COMPANY

ADDRESS _____

DATE _____

Signature of Offeror's Authorized Representative

AGREEMENT #

PROFESSIONAL SERVICES AGREEMENT

(Consultant of Record)

This Agreement is made between:

**THE MARION COUNTY
HOUSING AUTHORITY,
("MCHA"),**

and

_____,
("Provider"),

As an engagement for the continuing provision of
LAND SURVEYING SERVICES

IN CONSIDERATION of the mutual benefits and obligations set forth herein, the parties agree as follows:

1 PROVIDER'S OBLIGATIONS

- 1.1 Provider shall perform all tasks and complete all services defined and described in each individual written "Project Assignment" issued by the MCHA and approved by Provider under Article 3 of this Agreement. These tasks and services defined and described in each individual Project Assignment shall hereinafter be referred to as the "Work."
- 1.2 Provider shall be responsible for all subordinate tasks and services necessary to accomplish the Work described in each Project Assignment, whether or not expressly enumerated therein; EXCEPT that Provider shall not be obligated to undertake any task or service specifically designated therein as the responsibility of the MCHA or a third party.
- 1.3 Provider shall furnish all labor, materials, supplies, equipment, office space, shop space, reference and background data and information, and all other things necessary for the performance of the Work described in the Project Assignment, except as otherwise expressly provided therein.
- 1.4 Provider shall be fully and exclusively responsible to engage and compensate any and all subcontractors and subconsultants necessary to accomplish the Work described in the Project Assignment.
- 1.5 Prior to acceptance of a Project Assignment, Provider and the MCHA's project manager shall negotiate a written scope of services which shall become part of the Project Assignment and a not to exceed fee based on the negotiated scope of services. The MCHA may require a change in the scope of services, provided that the MCHA and Provider have negotiated any appropriate change to the not to exceed fee based on the changed scope of services. Any change in the scope of services and fee shall be set forth in writing and shall also become part of the Project Assignment.
- 1.6 Exhaustion of the maximum amount payable under Article 2 of this Agreement without completion of all Work described in the Project Assignment shall not relieve the Provider of the obligation to complete full performance of such Work. It is the intent of the parties that the basis for Provider's compensation is a not to exceed fee per each Project Assignment issued by the MCHA unless otherwise agreed to in writing by the MCHA.
- 1.7 Provider's Work Product furnished to the MCHA shall be fit for all purposes and services as described in the Project Assignment.

- 1.8 All Work performed under this Agreement shall meet or exceed the standard of professional quality of Provider's profession in the State of Oregon at the time such Work is performed.
- 1.9 Provider agrees that no person shall, on the grounds of race, color, religion, creed, sex, marital status, familial status or domestic partnership, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income, suffer discrimination in the performance of this Agreement when employed by Provider. Provider agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Further, Provider agrees not to discriminate against a disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business enterprise certified under ORS 200.055, in awarding subcontracts as required by ORS 279A.110.
- 1.10 As required by ORS 279C.520, Provider shall comply with ORS 652.220 and shall not discriminate against any of Provider's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a protected class. Commencing on January 1, 2019, Provider must comply with ORS 652.220 as amended and shall not unlawfully discriminate against any of Provider's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Provider's compliance with this article constitutes a material element of this Agreement and a failure to comply constitutes a breach that entitles the MCHA to terminate this Agreement for cause. Provider may not prohibit any of Provider's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Provider may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

2 MCHA'S OBLIGATIONS

- 2.1 The MCHA shall compensate Provider for the Work performed under Article 1 as follows:
 - 2.1.1 Provider's fee for the performance of all Work described and defined in any individual Project Assignment shall be based on the time and materials expended by Provider in furtherance of the Work at the rates, within the limits, and subject to the standards contained in the SUPPORTING DOCUMENTS. In no event shall Provider's fee for a particular Project Assignment be greater than the maximum sum identified in that Project Assignment. The compensation paid by the MCHA to Provider pursuant to this Agreement shall not exceed the amount of \$_____ annually.
 - 2.1.2 The MCHA shall pay Provider for the percentage of the compensation corresponding to the percentage of the Work which has been performed by the Provider during the billing period upon receiving Provider's monthly statement of account. The MCHA shall, unless it disputes the account statement, pay such billings within thirty (30) days after receipt. The MCHA shall pay interest at the rate of 1½ percent per month on any balance owed and unpaid more than thirty (30) days after receipt.

PROVIDER ACKNOWLEDGES THAT AUTHORIZATION FOR EXTRA WORK AND THE BASIS FOR ITS COMPENSATION MUST BE IN WRITING IN THE FORM OF AN AGREED-UPON AMENDMENT TO A PROJECT ASSIGNMENT. PROVIDER AGREES THAT ANY WORK DONE WITHOUT SUCH WRITTEN AUTHORIZATION IS DONE AS A

VOLUNTEER AND AT PROVIDER'S OWN RISK AND EXPENSE.

2.2 The MCHA shall furnish Provider all information, supplies, services, equipment, and other things which the Project Assignment specifies as the MCHA's responsibility.

3 PROJECT ASSIGNMENTS

- 3.1 This is a non-exclusive Agreement. The MCHA reserves the right to assign any project without regard to this Agreement and to procure any work through any selection procedure authorized by law. Notwithstanding that general policy, the MCHA reserves the rights to assign projects to any such service provider where, in the MCHA's sole discretion, that service provider is the best qualified for the work, and to exclude this Provider from consideration for any assignment where, in the exercise of its sole discretion, the MCHA determines that the work involved requires qualifications beyond the Provider's expertise.
- 3.2 The MCHA, through its Project Manager, shall give written notice of a Project Assignment, including a general scope of Work and schedule requirements. Provider shall then submit a written, signed project proposal within forty-eight (48) hours of the MCHA's written notice or as otherwise specified by the MCHA. If the Provider is unable to provide these services, the Provider shall notify the MCHA of this inability within forty-eight (48) hours of the notice of the Project Assignment. The MCHA reserves the right to withdraw the offer of the Project Assignment and offer it to another service provider if this Provider does not submit a written proposal within the required time frame.
- 3.3 After receipt of the written project proposal from Provider, the MCHA will review the proposal and, if approved, issue a Purchase Order Release which will include Provider's detailed scope of services as an attachment. If the proposal is not acceptable to the MCHA, the parties shall attempt to negotiate a proposal that is mutually acceptable. If such an agreement is not reached on the project proposal within seventy-two (72) hours after its receipt, the MCHA reserves the right to withdraw the offer and offer the project to another service provider.

4 OWNERSHIP OF WORK PRODUCT AND INTELLECTUAL PROPERTY.

- 4.1 Definitions. As used in this Article and elsewhere in this Agreement, the following terms have the meanings set forth below:
 - 4.1.1 "Provider Intellectual Property" means any intellectual property owned by Provider and developed independently from the Work as defined in each individual Project Assignment.
 - 4.1.2 "Third Party Intellectual Property" means any intellectual property owned by parties other than the MCHA or Provider.
 - 4.1.3 "Work Product" means every invention, discovery, work of authorship, trade secret document, or other tangible or intangible item and all intellectual property rights therein that Provider is required to deliver to the MCHA pursuant to the Work as defined in each individual Project Assignment.
- 4.2 Original Works. All Work Product created by Provider pursuant to this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of the MCHA. The MCHA and Provider agree that such original Work Product is "work made for hire" of which the MCHA is the author within the meaning of the United States Copyright Act. Provider hereby irrevocably assigns to the MCHA any and all of its rights, title, and interest in all original Work Product created pursuant to the Work as defined in each Project Assignment, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine shall vest in and is hereby assigned to the MCHA. Provider retains no right, ownership, or title in any copyright, patent, trademark, proprietary or any other protected intellectual property right resulting from the Work as defined under this Agreement. Upon the MCHA's reasonable request, Provider shall execute such further documents and instruments necessary to fully vest such rights in the MCHA. Provider forever waives any and all rights relating to original Work Product created pursuant to this Agreement including, without limitation, any and all rights arising under 17 USC §106A.

- 4.3 Provider Intellectual Property. In the event that any Work Product contains Provider Intellectual Property, Provider hereby grants to the MCHA an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Provider Intellectual Property and an irrevocable, non-exclusive, perpetual, royalty-free license to authorize others to do the same on the MCHA's behalf.
- 4.4 Third Party Works. In the event that Work Product contains Third Party Intellectual Property, Provider shall secure on the MCHA's behalf and in the name of the MCHA, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and an irrevocable, non-exclusive, perpetual, royalty-free license to authorize others to do the same on the MCHA's behalf.
- 4.5 All drawings, specifications, data, maps, photographs, renderings, documents, recordings, computer files (including but not limited to programs), and other like material furnished by the MCHA are instruments of service for the Project Assignment only, and shall remain the property of the MCHA whether the Project Assignment is completed or not. Provider is granted a limited license to use such materials in conjunction with Work under this Agreement only. Provider shall not use them for any other purpose.

5 WARRANTIES

- 5.1 Provider warrants that it owns or is the lawful licensee of all patents, copyrights, trademarks, service marks, and other intellectual property rights incorporated into the Work Product provided to the MCHA and that it has the full legal right to provide the Work and all components thereof, including any license granted pursuant to Article 4 of this Agreement. Provider shall indemnify and defend the MCHA, its officers, agents and employees against any and all claims of infringement of copyright, patent, trademark, or other intellectual property right arising out of Provider's production of the Work Product contemplated in this Agreement; PROVIDED, HOWEVER, that Provider shall have no such obligation with respect to Work Product which the MCHA modified without Provider's consent, to the extent that such modification was a substantial factor in the alleged infringement.

6 RISK ALLOCATION

- 6.1 Provider shall indemnify MCHA, its officers, employees and agents from and against any and all claims, demands, suits and legal actions, including appeals, arising out of or resulting from Provider's and its officers', employees', agents' and subcontractors' performance or provision of any service or the Work under this Agreement; provided, however, that Provider shall have no such obligation with respect to any such claim, demand, suit or legal action which arises out of or results from Work Product which has been materially altered by the MCHA without Provider's express written authorization.
- 6.2 Provider agrees that it is as fully responsible to the MCHA for the acts and omissions of its subcontractors, consultants and of any other persons either directly or indirectly employed by its subcontractor and consultant, as Provider is for the acts and omissions of persons directly employed by Provider.
- 6.3 Subject to the limitations imposed by the Oregon Tort Claims Act, Oregon Revised Statutes 30.260 to 30.300, the MCHA agrees to indemnify Provider from each and every claim which the MCHA would be legally liable to pay if: (a) a claim asserting the same loss or injury were made directly against the MCHA, whether or not such a direct claim is actually made; and (b) the loss or injury sustained by the claimant resulted from the acts, errors or omissions of the MCHA, its officers and employees.
- 6.4 "Indemnify," as used herein, means to indemnify, defend, save and hold harmless.
- 6.5 Provider shall obtain and maintain in effect during the term of this Agreement and until the MCHA's final acceptance of all Work performed hereunder, a policy or policies of liability insurance including commercial general liability insurance with a combined single limit, or the equivalent,

of not less than \$2,000,000 (two million dollars) per occurrence for Bodily Injury and Property Damage.

6.5.1 The insurance required in this Article shall include the following coverages:

- Comprehensive General or Commercial General Liability, including personal injury, contractual liability, and products/completed operations coverage;

6.5.2 Automobile Liability with a combined single limit, or the equivalent, of not less than \$1,000,000 (one million dollars).

6.5.3 Each policy of such insurance shall be on an "occurrence" and not a "claims made" form, and shall:

- Name as additional insureds "the Marion County Housing Authority, Oregon, its officers, agents and employees" with respect to claims arising out of Provider's Work under this Agreement;
- Apply to each named and additional named insured as though a separate policy had been issued to each, provided that the policy limits shall not be increased thereby;
- Apply as primary coverage for each additional named insured except to the extent that two or more such policies are intended to "layer" coverage and, taken together, they provide total coverage from the first dollar of liability;

6.5.4 Provider shall immediately notify the MCHA of any change in insurance coverage.

6.5.5 Provider shall supply an endorsement naming the Marion County Housing Authority, its officers, employees and agents as additional insureds within sixty (60) days of the Effective Date of this Agreement,

6.5.6 Be evidenced by an endorsement of such insurance approved by the MCHA.

6.5.7 Provider shall carry Errors and Omissions (professional liability) coverage with combined single limits of not less than \$2,000,000 (two million dollars). Provider shall furnish evidence of such coverage through a certificate of insurance in a form acceptable to the MCHA.

6.5.8 All subject employers working under this Agreement are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

7 GENERAL PROVISIONS

7.1 This Agreement, including the SUPPORTING DOCUMENTS, represents the entire and integrated understanding between the MCHA and Provider and supersedes all prior negotiations, representations and agreements, whether written or oral.

7.2 This Agreement may be amended only by written instrument executed by both the MCHA and Provider with the same formalities as this Agreement. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of its provisions shall be held to be waived or modified by reason of any act whatever, other than by a written amendment as provided in this Article.

7.3 One or more waivers or failures to object by either party to the other's breach of any provision, term, condition, or covenant shall not be construed as a waiver of any subsequent breach, whether or not of the same nature.

7.4 In the event the Work called for in a Project Assignment calls for Provider to furnish a plan or design to be constructed by others, it is agreed that Provider has not been retained or compensated to provide construction review services relating to the subsequent contractor's safety precautions, or to the means, methods, techniques, sequences, or procedures employed by that contractor to achieve the result called for in the Provider's plans, unless Provider's responsibilities under the Project Assignment specifically include construction management services, and Provider has specified a particular means, method, technique, sequence, or procedure in the plans or specifications for the project.

7.5 Neither party to this Agreement shall assign its interest in the Agreement or any part thereof, nor sublet it as a whole without the written consent of the other; nor shall the Provider assign any

- monies due or to become due hereunder without the previous written consent of the MCHA.
- 7.6 Nothing in this Agreement shall be construed to create any contractual relationship between any subcontractor/consultant and the MCHA.
 - 7.7 Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees or agents.
 - 7.8 Should litigation occur between the parties relating to the provisions of this Agreement, all litigation and appeal expenses, collection expenses, reasonable attorney fees, necessary witness fees, and court costs incurred by the prevailing party shall be paid to the prevailing party by the non-prevailing party, and all such expenses and costs may be included in the judgment entered in favor of the prevailing party.
 - 7.9 This Agreement shall be governed by the laws of the State of Oregon without regard to conflict of laws principles. Exclusive venue for litigation of any action arising under this Agreement shall be in the Circuit Court of the State of Oregon for Marion County unless exclusive jurisdiction is in federal court, in which case exclusive venue shall be in the federal district court for the district of Oregon. Each party expressly waives any and all rights to maintain an action under this Agreement in any other venue, and expressly consents that, upon motion of the other party, any case may be dismissed or its venue transferred, as appropriate, so as to effectuate this choice of venue.
 - 7.10 The following laws of the State of Oregon are hereby incorporated by reference into this Agreement: ORS 279C.505, 279C.515, 279C.520 and 279C.530.
 - 7.11 In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties.
 - 7.12 Provider is an independent contractor and not an employee of the MCHA for any purpose.

8 NOTICE

- 8.1 Whenever notice is required or permitted to be given under this Agreement, such notice shall be given in writing to the other party by personal delivery, by sending via a reputable commercial overnight courier, by mailing using registered or certified United States mail, return receipt requested, postage prepaid, or by electronically confirmed facsimile transmission to the address or facsimile number set forth below:

If to the MCHA:

Attn: Jason Icenbice
2645 Portland Rd. NE, Ste. #200
Salem, OR 97301
Phone: (503) 584-4775
Fax: (503) 798-4171
Email: jicenbice@mchaor.org

If to Provider:

Any notice delivered by personal delivery shall be deemed to be given upon actual receipt. Any notice sent by commercial overnight courier shall be given five (5) days after dispatch. Any notice sent by United States mail shall be deemed to be given five (5) days after mailing. Any notice sent by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against either party, such facsimile transmission shall be confirmed by telephone notice to the other party.

9 SUPPORTING DOCUMENTS

9.1 The following documents are, by this reference, expressly incorporated into this Agreement and are collectively referred to in this Agreement as the "SUPPORTING DOCUMENTS:"

- The Request for Proposals No. [INSERT], issued by the the Marion County Housing Authority, together with any documents incorporated by reference therein.
- The Provider's complete written Proposal dated: [DATE]

Any of the following which may be delivered or issued on or after the Effective Date of this Agreement:

- Written Project Assignment (s).
- Purchase Order Release(s).
- Change Order(s).
- Written Amendment(s).
- Purchase Order Adjustment Form(s).

9.2 This Agreement and the SUPPORTING DOCUMENTS shall be construed to be mutually complimentary and supplementary wherever possible. In the event of a conflict which cannot be so resolved, the provisions of this Agreement itself shall control over any conflicting provisions in any of the SUPPORTING DOCUMENTS. In the event of conflict between provisions of two of the SUPPORTING DOCUMENTS, the several supporting documents shall be given precedence in the order listed in Subarticle 9.1 of this Agreement.

10 REMEDIES

10.1 In the event Provider is in default of this Agreement, the MCHA may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

- 10.1.1 termination of this Agreement;
- 10.1.2 withholding all monies due for Work and Work Products that Provider has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- 10.1.3 initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
- 10.1.4 exercise of its right of setoff.

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

10.2 In the event the MCHA terminates the Agreement, or in the event the MCHA is in default, Provider's sole monetary remedy shall be:

- 10.2.1 with respect to services compensable on an hourly basis, a claim for unpaid invoices, hours worked within any limits set forth in this Agreement but not yet billed, authorized expenses incurred and interest of two-thirds of one percent per month, but not more than eight percent per annum, and

10.2.2 with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by the MCHA, less previous amounts paid and any claim(s) that the MCHA has against Provider.

10.2.3 In no event shall the MCHA be liable to Provider for any expenses related to termination of this Agreement or for any anticipated profits. If previous amounts paid to Provider exceed the amount due to Provider, Provider shall immediately pay any excess to the MCHA upon the MCHA’s written demand.

11 TERM AND TERMINATION

11.1 Except as provided in Article 11.5. and unless sooner terminated as provided in this Article, this Agreement shall become effective on the date of execution on behalf of the MCHA, as set forth below (the “Effective Date”), and shall terminate on December 31, 2023, PROVIDED, however, that this Agreement shall continue in effect as to any Project Assignment accepted by Provider and still uncompleted on the foregoing termination date.

11.2 This Agreement may be extended for no more than four (4) additional one-year terms upon the mutual written consent of the parties.

11.3 The provisions of Article 6 shall survive termination or expiration of this Agreement as to the rights and liabilities relating to Work done by Provider under a Project Assignment.

11.4 This Agreement may be terminated by either party for any or no cause by giving not less than thirty (30) days’ prior written notice to the other; PROVIDED, however, that with respect to any uncompleted Project Assignment, this Agreement may be terminated by either party only for good cause, after not less than thirty (30) days prior written notice to the other, and then only where the party in default has not cured the default within such thirty (30) day period.

11.5 The rights and obligations created under Articles 4, 5 and 6, and subarticles 7.8 through 7.10 of this Agreement are continuing with respect to matters within the scope of this Agreement, and shall survive its termination or expiration.

IN WITNESS WHEREOF the parties have caused this Agreement to be signed in their respective names by their duly authorized representatives as of the dates set forth below.

**THE MARION COUNTY
HOUSING AUTHORITY,
OREGON**

[PROVIDER]

By: _____

By:

**Jason D. Icenbice,
Executive Director**

Title: _____

Date:

Printed Name: _____

Date: _____

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

OMB Approval No. 2577-0157 (exp. 11/30/2023)

**Contract Provisions Required by Federal Law
or Owner Contract with the
U.S. Department of Housing and Urban Development**

Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development

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

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

Public reporting burden for this collection of information is estimated to average 3 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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

These contracts between a HUD grantee (housing agency (HA)) and an architect/engineer (A/E) for design and construction services do not require either party to submit any materials to HUD. The forms provide a contractual agreement for the services to be provided by the A/E and establishes responsibilities of both parties pursuant to the contract. The regulatory authority is 2 CFR 200. These contractual agreements are required by Federal law or regulation pursuant to 2 CFR Part 200. Signing of the contracts is required to obtain or retain benefits. The contracts do not lend themselves to confidentiality.

1.0 Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development (HUD).

1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2

and conform to the Contract pricing provisions of 2 CFR 200.

1.2 Additional Services. The Owner shall perform a cost or price analysis as required by 2 CFR 200 prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

1.3 Restrictive Drawings and Specifications. In accordance with 2 CFR 200 and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

1.4 Design Certification. Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 905.312), the Design Professional shall provide such a certification to the Owner.

1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfil the requirements of the construction contract.

1.7 Conflicts of Interest. Based in part on federal regulations (2 CFR 200) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his or her immediate family,
- (iii) His or her partner, or

(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

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

1.8 Disputes. In part because of HUD regulations (2 CFR 200), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of \$10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, 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 from it.

1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee 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.

1.12 Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

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.

G. Reserved.

H. Reserved.

I. Reserved.

1.14 Clean Air and Water. (Applicable to contracts in excess of \$100,000). Because of 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of \$100,000.

1.15 Energy Efficiency. Pursuant to Federal regulations (2 C.F.R. 200) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex, national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe's powers of self-government.

1.18 Prohibition Against Liens. The Design professional is Prohibited from placing a lien on the Owner's property. This prohibition shall be placed in all design professional subcontracts.

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. 1/31/2027)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number. This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 75. The form is required for non-construction contracts awarded by Public Housing Agencies (PHAs). The form is used by PHAs in solicitations to provide necessary contract clauses and allows PHAs to enforce their contracts. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. Do not send this completed form to either of these addressees. The information collected will not be held confidential.

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 \$250,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$250,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$250,000 — use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$250,000

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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- (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 111, 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
 - () The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(v) 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.
 - (i) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.
- (iii) Selling activities by independent sales representatives.
- (c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:
- (i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
 - (ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
- (e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

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

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

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

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

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

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

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

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

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

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

17. Equal Opportunity for Workers with Disabilities

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

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

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

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

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

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

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

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

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

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, 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 75 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 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, 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 75. 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 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

23. 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

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:]

Marion County Housing Authority “Vendor Registration Instructions”



Please follow these instructions to register for the marketplace as a vendor

Click or Copy and Paste this URL :

https://ha.internationaleprocurement.com/requests.html?company_id=71014

Step 1: Marketplace Registration

Click “Register your Company”

You will be redirected to a form that will allow you to Create and Account



The screenshot shows the Housing Agency marketplace website. At the top, there is a logo and the text "Housing Agency marketplace". Below this, a green banner displays "Customer Support: 1-866-526-9266". The main content area shows the date and time "Sat. May 25, 2019 09:42 AM EDT". Under the heading "Fort Worth Housing Authority", there is a link "Register your company" which is highlighted by a red arrow. Below this, there is a link "Click here to login". The page also displays sections for "Bids (QSPs) by Fort Worth Housing Authority.", "Proposals (RFPs) by Fort Worth Housing Authority.", and "Quotes (RFQs) by Fort Worth Housing Authority.", each with a table header and the text "No active [type]s.".

Fort Worth Housing Authority

[Register your company](#) to be able to view and respond to requests.

Already registered: [Click here to login](#) and view these and other requests.

Bids (QSPs) by Fort Worth Housing Authority.

Title	Main Commodity/Service Category	Solicitation #	Buyer	Phone	Submission Deadline
No active QSPs.					

Proposals (RFPs) by Fort Worth Housing Authority.

Title	Main Commodity/Service Category	Solicitation #	Buyer	Phone	Proposal Submission Deadline
No active RFPs.					

Quotes (RFQs) by Fort Worth Housing Authority.

Title	Main Commodity/Service Category	Solicitation #	Buyer	Phone	Proposal Submission Deadline
No active QBSS.					

Contact Customer Support: 1-866-526-9266 © Copyright 2019, Economic Engine


Step 2: Creating an Account

Enter your company name and click on
“Search Companies”

If no company is found, click on
“Register your company.”

If your company was found, follow
instructions to register as a
salesperson.

Submit the request.

Create an Account 

Thu, May 02, 2019
08:45 AM EDT

You can create a new company or join an existing one.

By creating this account, you are agreeing with the [Housing Agency Marketplace Vendor Agreement](#) [Adobe Acrobat PDF Format].

Please enter your company name below to find out if your company is already enrolled.

1. Company Information:

Enter the name of your company as you would want the buyer to view (eg: Office Depot). Then click on the 'Search Companies' button.

Step 3: Company Information

Complete Company Information Form

You must include all information unless it states
“optional”

Be sure to check either “None” on the MWBE
Classification, or all boxes that apply to your company

Please enter your company information below.

Company Information:

Please enter your company information below

Note: All fields are required unless otherwise noted

Company Name:	Sample Company
Address:	1212 Main St
City:	Anytown
State:	Alaska (AK) ▼
Postal Code:	55555
County:	Any County
Country:	U.S.A. ▼
Province: (optional)	
Timezone:	Alaska ▼
Web Address: (optional)	http://www.samplecompany.com
Contact Name:	Bill Jones
Contact Title:	President
Contact Phone:	888 555 - 5555 Ext. <input type="text"/>
Contact Fax: (optional)	<input type="text"/> - <input type="text"/>
Contact Email:	bill.jones@samplecompany.com
Year Established:	2000
Number of Employees (include yourself): (optional)	25

- MWBE Classification:
- None (not Woman- or Minority-owned)
 - Woman-owned Business Enterprise
 - African-American Business Enterprise
 - Hispanic-American Business Enterprise
 - Native American Business Enterprise
 - Asian Pacific-American Business Enterprise
 - Asian Indian-American Business Enterprise
 - Hassidic Jew-American Business Enterprise
 - Qualified Disabled Veteran Owned
- Other Classification: Section 3 Vendor [[HUD Section 3 Brochure](#)]

Step 4: Point of Contact

Complete Point of Contact (Site Administrator) Information

Click Submit

Point of Contact (Site Administrator)

The Point of Contact administers the site. They will be the one who receives bid notifications. The Point of Contact may add additional users after logging in and going to the "Manage Users" area on the software menu.

First Name:	<input type="text" value="Sam"/>
Last Name:	<input type="text" value="Smith"/>
Phone Number:	<input type="text" value="888"/> <input type="text" value="555"/> - <input type="text" value="5555"/> Ext. <input type="text"/>
Title: (optional)	<input type="text" value="VP Purchasing"/>
Email Address:	<input type="text"/>
Confirm Email Address:	<input type="text" value="sam.smith@samplecompany.com"/>
Password:	<input type="password" value="....."/>
Confirm Password:	<input type="password" value="....."/>

By clicking Submit you agree to the [Housing Agency Marketplace Vendor Agreements](#).

Step 5: Company Services / Commodities List

Check each box that is appropriate to your business

You may use the "Click Here" link to search for codes

Click Save & Continue



User Profile

Thu, May 02, 2019
05:08 AM AKDT

User Commodities/Services

Please check the commodities/services that you wish to receive emailed bid notifications in the future.

[Click here](#) if you wish to search by suggested keywords that link to a specific commodity/service

Once completed, please click on the "Save" button.

Save

These are the present commodities/services that you have selected. They are shown in bold with a check to the left of each commodity/service code. Please be sure and check all that may apply to your company. You can view your selected codes from the "Bid Assistant" located on the left hand Software Menu.

- Accounting and Auditing Services
- Adobe Applications**
- Advertising**
- Appraisal Services
- Architectural and Engineering Services
- Art, Collectibles, and Awards
- Arts and Crafts Supplies
- Asphalt / Concrete Paving
- Asset Management Services
- Audio / Visual Equipment & Services**
- Automatic Doors, Gates and Services
- Banking and Investment Services
- Bearings, Bushings, Wheels, and Gears
- Beeper Equipment, Accessories and Services
- Beverages
- Broker Services
- Building Materials / Products
- Business Administration Services
- Business Credit Reports
- Cabinets and Accessories
- Cable and Satellite Television Services
- Cameras, Accessories and Film

Step 6: Login to the Marketplace

Enter your email address and password to enter our marketplace.

You will be prompted to check a site usage agreement before entering our Marketplace.

Once you check this box and hit submit, you will then be allowed to enter.

THERE IS NO COST TO RECEIVE SOLICITATIONS FROM OUR AGENCY THROUGH THE HOUSING AGENCY MARKETPLACE

Housing Agency marketplace

HOME PAGE

E-mail: samplecompany@gmail.com
Password:

LOGIN

[Forgot Password?](#)

**Section 3
Economic Opportunity**

Agencies Utilizing Marketplace

Sign-up now:
As a Vendor
As a Housing Agency

Customer Support

Marketplace Comments

"Following the steps laid out in the software helps me to feel more confident that our procurements are compliant. Work the system and it will work for you! The marketplace is also very beneficial because of all of the additional vendors that I can solicit, thereby adding more competition for each project. My favorite feature however, is the fact that the software will automatically generate many of the forms needed at the end of the procurement based on the information I input. That saves me time because I don't have to create my own!"

Thank You,
Rebecca Hilliard
Project Coordinator/Network Admin
Housing Authority of Hopkinsville
270-887-4275 ext. 1105
270-887-4080 Fax

Powered By
ECONOMIC ENGINE
YOUR E-PROCUREMENT TOOLBOX