



100 West 13th Avenue, Eugene, OR 97401 • PH 541-682-3755 • FAX 541-682-3411



Homes. People. Partnerships. Good. www.homesforgood.org

REQUEST FOR PROPOSALS

#26-P-0005

Physical Needs Assessment (PNA)

ISSUE DATE: Thursday, October 9, 2025

DUE DATE: Thursday, November 6, 2025, by 2:00 PM

RFP CONTACT: Teresa Hashagen
Homes for Good
100 W. 13th Avenue
Eugene, Oregon 97401
Phone: 541-682-2562
thashagen@homesforgood.org

SECTION I: INTRODUCTION

Homes for Good Housing Agency referred to in this document as Agency, is soliciting written proposals from seeking the services of qualified, licensed individuals and/or who have the capability and experience to conduct a Physical Needs Assessment (PNA) for its 595 Public Housing units in strict accordance with all applicable Department of Housing and Urban Development (HUD) Regulations, guidelines, final rules and specified Tools.

According to HUD requirements, all PHAs that own or operate 250 or more public housing units were previously required to perform a PNA of their properties pursuant to 24 CFR 968.315(e)(2) prior to 2015. Although, Public Housing Authorities (PHAs) are no longer required to conduct PNAs, HUD recognizes that PNAs or Capital Needs Assessments (CNA) are a real estate industry tool used to identify and manage the long-term capital needs of properties. Therefore, HUD encourages PHAs that choose to update their existing PNAs to do so based on a review of existing trends and documentation such as maintenance records, modernization plans, Uniform Physical Condition Survey (UPCS) or NSPIRE inspection results, plans to achieve compliance with Section 504 of the Rehabilitation Act and UFAS, property manager reports, and other data indicating the physical condition of the properties.

The full project scope, content of proposal, and vendor selection process are summarized in the RFP.

Proposal documents are available in electronic PDF format in the Bid Opportunities section of the Agency's website www.homesforgood.org/opportunities/contracts-and-vendors/bid-opportunities on Thursday, October 9, 2025 by 10:00 AM.

Questions concerning this RFP must be submitted via e-mail to Teresa Hashagen at thashagen@homesforgood.org no later than 4:00 PM, Thursday, October 23, 2025. Clarifications, questions and answers will be posted in the Bid Opportunities section on the Agency website for review by all interested parties.

Homes for Good reserves the right to reject any and all proposals not in compliance with all prescribed public bidding requirements and may reject for good cause or waive any informality in bids received whenever such rejection or waiver is in the public interest to do so. The Agency complies with State and

Federal laws and regulations relating to discrimination and employment, including the Americans with Disabilities Act (ADA 1990).

Interested firms and individuals are invited to submit proposals in accordance with the requirements described below. Minority, Women and/or Emerging Small Business Enterprises are encouraged to respond. No Pre-Proposal Conference will be held for this proposal. Requests for additional information should be directed to Teresa Hashagen, Contract Administrator, at (541) 852-6044 or thashagen@homesforgood.org.

SECTION II: BACKGROUND INFORMATION

Listed below are the developments that will be included in the scope of this proposal (595 units):

- Laurelwood Homes, located on the Oregon Coast in Florence, offers 1, 2, 3 and 4-bedroom single-story duplexes for elderly or disabled residents and for low-income families. There are (6) one-bedroom units; (14) two-bedroom units; (6) three-bedroom units; and (3) four-bedroom units.
- McKenzie Village is located in the city of Springfield, OR. McKenzie Village is truly a "village" in that it encompasses an entire neighborhood; it is comprised of 86 duplexes that line both sides of the streets at North First St., Mill St., West Olympic St., Water St., Kelly Blvd., West Quinalt St., Prescott Ln., McPherson Pl. and West Fairview Dr. The community is comprised of (52) one-bedroom units, (90) two-bedroom units and (30) three-bedroom units serving seniors, persons with disabilities, and families.
- Pengra Court is comprised of (17) two-bedroom and (5) three-bedroom townhouse style apartment homes and is situated on R Street in Springfield, OR.
- Maplewood Meadows offers (35) three-bedroom; and (3) four-bedroom townhouses located in Eugene, OR.
- Lindeborg Place located in Junction City, is a two-story apartment complex comprised of (40) one-bedroom units serving the seniors and people with disabilities.
- Veneta Villa located in Veneta, Oregon, is a one-level apartment community comprised of (28) one-bedroom units; and (2) 2-bedroom units for seniors and persons with disabilities.
- Veneta Villa Scattered Sites consist of (4) two-bedroom single-family homes; (14) 3-bedroom single-family homes; and (2) four-bedroom single-family homes.
- Cresview Villa Apartments is an apartment complex for seniors and people with disabilities located in Creswell, Oregon and has (33) one-bedroom units.
- Riverview Terrace is a five-story building located in Cottage Grove, OR which offers (60) one-bedroom units for seniors and people with disabilities.

SECTION III: PROGRAM OBJECTIVE

The purpose of this solicitation is to select a qualified firm to perform a Physical Needs Assessment (PNA). The PNA will consist of a physical inspection of a sampling of all identified properties listed in Attachment A. The selected Contractor will provide a full range of services, including evaluating the existing conditions of the housing stock, including a random selection of units, common areas, offices, and program areas. All identified physical improvements will meet or exceed the HUD mandatory standards and those established by local health, safety, and building codes.

At a minimum, the goal of the PNA is to identify and provide a description of all physical improvements that will be required to bring the property back to a level comparable with "as built", to the degree reasonably possible based on available components and building age. The effort should provide the Agency with the information necessary to ensure long-term (20 years) physical viability and in a manner suitable for planning and budgeting purposes. Data shall be in a format suitable for HUD reporting requirements.

SECTION IV: SCOPE OF SERVICES

A. The PNA will consist of the Contractor providing the following services:

1. Creating a general assessment of the physical needs and costs for improvements of each public housing project, community, administrative, and maintenance buildings and grounds as specified in HUD Notice PIH 2010-46, PNA User Guide, the Public Housing Modernization Standards Handbook 7485.2, 24 CFR 905.300, 24 CFR 965.302 and applicable energy codes. Perform interviews as needed with knowledgeable Agency staff as to the existing documents, plans, building histories, maintenance records, REAC scores, etc. of each property.
2. Identify all development components that will be part of the assessment.
3. Establish a sampling methodology per property. The sample should also include at least 1 of each apartment size in each building type. Units must be distributed so that a variety of conditions will be evaluated (top floor units, corner units, areas where weathering occurs, etc.). Within each development, a sampling of ten percent (10%) of dwelling units, twenty percent (20%) of dwelling buildings, one hundred percent (100%) of non-dwelling structures, and 100% of the sites. Within the unit sampling, a minimum of 50% of Section 504-designated units will be inspected.
4. Establish a plan to inspect 100% of the site, all systems, paving and grading, building exteriors/envelopes, finishes, program areas, offices, basements, utilities, laundry facilities, warehouse(s), multi-purpose building(s), mechanical areas, sprinklers, emergency systems, security, crawl spaces, etc. Please note: if individual units have individual HVAC, etc., then these will be part of the 10% sample, except in cases where there may be an atypical component which should be assessed individually.
5. Perform walk-through inspections of each development and other Agency properties to ascertain the condition of the property; immediate critical and non-critical needs; code compliance; expected repair, replacement, and major maintenance needs; and total estimated cost to complete such items. The assessor will record the data on the HUD PNA-approved data collection forms for site, building exterior, building systems, unit, and common areas.
6. Identify work necessary to comply with federal, state, and local requirements and codes, such as elimination of asbestos/lead and new energy code compliance.
7. As part of the assessment, each individual component will receive an estimate of Expected Useful Life (EUL), and the reports should give the Remaining Useful Life of each component (RUL).
8. As part of the assessment, each component will be provided with a replacement cost for an individual component and for the total of those components. (Ex: per window and per window times all similar windows).
9. Identify work items needed and costs for implementation to make selected units accessible and usable by the handicapped as required by Section 504 of the Rehabilitation Act of 1973. This will include costs to retrofit a specific number of dwelling units to meet Section 504 requirements for persons with disabilities. Each area that is designated as part of Section 504 or Americans with Disabilities Act (ADA) requirements will be inspected to ensure the components are functioning per their purpose. Note: A regulatory compliance review is not required for these units or areas, just a functionality and EUL assessment.

10. The assessment is of observable components and destructive testing is not anticipated and would only occur with prior Agency approval.
11. Any deficiencies that are identified and which could have an impact on health and safety will be brought to the attention of the Agency immediately.
12. The Contractor will develop a Comprehensive Costing Library. Professional/certified cost estimating utilizing RSMeans is preferred. Building a comprehensive cost and EUL component library is vital to using the HUD PNA Tool. The comprehensive cost and EUL component library must contain descriptions and reference information.
13. The Contractor will detail quantity and cost estimates to accomplish each work item, a total for each project, and a grand total to accomplish all needed physical improvements. *General work category (e.g. Kitchens, Bedrooms, etc.) costing without specific work item costing is unacceptable.* Contractor shall show a line-item prioritization as recommended by HUD. All data will be entered into the HUD PNA tool. All data fields in the PNA tool must be collected and inputted by Contractor into the HUD PNA tool. Missing or incomplete data is unacceptable.
14. Contractor will train Modernization and all Managers on how to enter/change information on PNA tool.

SECTION V: DELIVERABLES & SCHEDULE

DELIVERABLES:

1. (2) Hard copies and (1) electronic copy shall be submitted by the Contractor on a thumb drive of the Draft Report of the Physical Needs Assessment Results.
2. (2) Hard copies and (1) electronic copy shall be submitted by the Contractor on a thumb drive the Final Report of the Physical Needs Assessment Results.
3. The Contractor will provide the Agency with a copy of the HUD's Physical Needs Assessment Tool (PNA) with all the Agency's PIC Data, PNA Inspections, Comprehensive Cost Library, Replacement Needs, Refurbishment Needs, Sustainability Needs, Accessibility Needs and Marketability Needs if necessary.

SCHEDULE:

REQUEST FOR PROPOSAL	October 9, 2025
QUESTIONS DUE	October 23, 2025, by 4:00 PM
SUBMITTALS DUE	November 6, 2025, by 2:00 PM
FIRM SELECTED:	November 20, 2026, by 4:00 PM
FIRM NOTIFIED	November 21, 2026, by 10:00 AM
EXECUTE CONTRACT	December 3, 2025
NOTICE TO PROCEED	January 5, 2026
DRAFT REPORT: AGENCY REVIEW	No later than one hundred twenty (120) days from the Notice to Proceed
FINAL REPORT: AGENCY REVIEW	Within 30 days after receipt of Homes for Good comments on draft.
COMPLETE DATA ENTRY INTO THE TOOL, AGENCY REVIEW AND UPLOAD DATA TO HUD.	Within 30 days after receipt of Homes for Good comments on draft.

SECTION VI: SUBMITTAL & EVALUATION

In order to be considered eligible to submit a proposal, each organization, individual, or firm must submit written evidence with its proposal, demonstrating that it fulfills the following eligibility criteria:

1. The proposer has a minimum of one year experience working for or contracting with a housing agency and/or related housing or government agencies. Must have experience in conducting physical needs assessments, multi-family building code inspections, the Capital Fund Program, and/or other public housing programs.
2. The proposer and staff utilized in this engagement must have at least five years of experience with inspections of building systems including systems, roofs, structural components, living spaces, plumbing, electrical, HVAC, building envelope, emergency systems, elevators, community and program spaces, offices, and grounds and other amenities; demonstrated track record of other contracts or similar services; minimum five year experience with cost estimating; knowledge of applicable local and state building codes and ordinances; and knowledge of Section 504 and American with Disabilities Act.
3. Proposer must provide a minimum of 3 references with contact telephone numbers of housing agencies or multi-family properties where similar work was performed.
4. Proposer must provide a certification statement that the firm is not debarred, suspended, or otherwise prohibited from professional practice by any federal, state, or local agency.

5. All proposers must carry the following insurance policies: required workmen's compensation, general liability of not less than \$1 million, professional liability of not less than \$1 million and non-owners auto insurance not less than \$1 million.

Submission Requirements and Pricing

Interested proposers must respond with a technical and price proposal with:

1. Evidence that proposer meets minimum qualifications. Proposer is encouraged to submit relevant and concise information regarding their firm's experience and qualifications to perform the requested services.
2. Evidence that the proposer's project team meets the minimum qualifications to perform the requested services.
3. Provide the name, address, telephone number and email address for a minimum of three (3) clients for whom services similar to those required under this RFP have been performed.
4. Provide a detailed description of how proposed services as stated in this RFP will be provided and a list of deliverables the Agency will receive.
5. Fixed price to provide all the proposed services. Provide pricing for each of the 10 project sites and a total for the contract.
6. Proposed project schedule.
7. Completed Form HUD-5369-C, Certifications and Representations of Offers Non-Construction Contract.
8. Completed Section 3 Certification Form.
9. Completed Certification of Informalities and Irregularities

Mail or deliver proposals to:

Teresa Hashagen
Homes for Good
100 W. 13th Avenue
Eugene, Oregon 97401
Phone: 541-852-6044
thashagen@homesforgood.org

SECTION VII: RFP CLAUSES

1. The RFP and Contract are subject to the terms and conditions of the State of Oregon, as they exist at the time the agreement is signed and the following:
 - A. Form HUD 5369-B, Instructions to Offers Non-Construction Contract;
 - B. Form HUD 5369-C Section 1, Certification and Representation of Offers Non-Construction Contract;
 - C. Form HUD 5370-C, General Conditions for Non-Construction Contracts.
2. The Contractor will provide all assessment and other related materials and equipment and/or software necessary for the execution of this contract. Agency shall provide access to project sites and units and the HUD Physical Needs Assessment (PNA) tool software program.
3. Award of Contract. The award shall be made to the responsible party whose proposal is most advantageous to the Homes for Good Housing Agency, taking into consideration the evaluation factors set forth in this request for proposals. The proposer to whom the award is made will be notified at the earliest practicable date. Homes for Good reserves the right to reject any and all proposals not in compliance with all prescribed public bidding requirements and may reject for good cause or waive any informality in bids received whenever such rejection or waiver is in the public interest to do so.
 - A. By execution of a contract with Homes for Good, the contractor certifies, under penalty of perjury that: (a) To the best of contractor's knowledge, contractor is not in violation of any tax laws described in ORS 305.380(4), and (b) Contractor has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts.
 - B. Licenses and Permits: The awarded Contractor will certify on the signed contract that s/he has all necessary licenses, permits or certificates of registration necessary to perform the work covered by this Contract, and certifies that all subcontractors shall likewise have all necessary licenses, permits or certificates before performing any work. The failure of Contractor to have or maintain such licenses, permits or certificates is grounds for immediate termination of the contract.
 - C. Severability. If any provision of the Contract or project manual is declared by a court to illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
4. REJECTION OF PROPOSALS
Home for Good Housing Agency reserves the right to accept or reject any or all proposals that are determined to be non-responsive.
5. EXECUTION OF CONTRACT
 - A. Contracts of \$100,000 or more require approval by the Agency's Board of Directors prior to execution by the Agency's Executive Director.
 - B. Sample Professional Services Contract, see Attachment E.
6. INSURANCE
Evidence (Certificate of Insurance) including:
 - A. Commercial General Liability Insurance of at least (\$1,000,000) each occurrence/aggregate for Bodily Injury and Property Damage.

- B. Professional Liability Insurance (Errors, Omissions, Negligent Acts) of at least (\$1,000,000/\$2,000,000) each occurrence/aggregate to cover damages caused by error, omission, or negligent acts related to professional services to be provided under this contract.
- C. Automobile Liability Insurance, with combined single limit or equivalent of not less than \$1,000,000 each accident for Bodily Injury and Property Damage for Contractor's vehicles whether owned, hired, or non-owned.
- D. Workers Compensation (Oregon applicable workers compensation) including employers' liability of limits not less than \$500,000/\$500,000/\$500,000.

**HOMES FOR GOOD HOUSING AGENCY
100 W. 13th Avenue
Eugene, Oregon 97401**

7. PAYMENT

Payment for services will be based on an agreed upon payment schedule and percentage of completion of the contract. Contractor shall submit itemized invoices to the Agency for the percentage of work completed based on the payment schedule. Contractor's invoices shall be processed, and payment made to the contractor in accordance with the policy and procedure of the Agency.

8. CONFLICT OF INTEREST

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

9. The contractor warrants adhering to civil rights, equal opportunity, fair housing, drug free workplace, and Section 3 regulations.

10. LIENS

Contractor shall not permit any lien or claim to be filed or prosecuted against Homes for Good in connection with this contract. Contractor shall assume responsibility for satisfaction of any lien so filed or prosecuted should such lien or claim be filed, and shall defend against, indemnify and hold Homes for Good harmless from any such lien or claim.

SECTION VIII: EVALUATION FACTORS FOR AWARD OF CONTRACT

Selection Process:

- A. The Agency will assign an Evaluation Committee to complete an evaluation of all proposals;
- B. Proposals will be evaluated using the Evaluation Factors outlined below, PROPOSAL EVALUATION (110 points maximum). The results of the evaluation will not be disclosed, either before or after a contract is awarded;
- C. The Committee will select the proposal that is determined to be in the best interest of the Agency.

PROPOSAL EVALUATION	Max Points
Company Project Experience: Firm's demonstrated capability, experience and technical competence providing the type of services specified in the Section III. "Scope of Services" of the RFP Familiarity with all applicable Federal and State of Oregon codes, regulations and standards. Firm's Professional association membership, certifications, licenses, etc. relevant to the RFQ.	15
Project Team Experience: Qualifications and relevant individual experience of firm's staff and consultant team assigned to this project as presented in submitted proposal (individual project team resumes are required). Professional training, education, certifications and licenses of firm's staff and consultant team assigned to this project. Depth and breadth of areas of Proposer's staff and consultant team. Overall team experience performing similar scopes of work for public governmental agencies.	15
Past Performance: Proposer should provide the name, address, telephone number and email address of a minimum of 3 clients for whom services similar to those required under this RFQ have been performed, specifically indicating the members of the firm, including consultants who worked for that client. Include a general description of services provided with each reference. All project and client references provided should be current and should be relevant to the firm, personnel and demonstrated experience.	15
PNA Experience: Verifiable and successful experience in performing Physical Needs Assessments for public housing agencies.	25
Fixed Price: Total Price of services to be provided shall be itemized by site.	20
SECTION 3 Business Preference: Section 3 business concerns.	10
Total Possible Points (Maximum)	100

SECTION IX: ATTACHMENTS

EXHIBIT A – Development Breakdown Report

EXHIBIT B – Property Descriptions

EXHIBIT C – HUD 5369-B, Instructions to Offerors Non-Construction

EXHIBIT D – HUD 5370-C General Conditions for Non-Construction Contracts

EXHIBIT E – Sample Professional Services Contract

Development Breakdown Report

Residential Number of Units Breakdown:

Property Name	Bedroom Size							Total Units per Property	504 Bedroom Size							Total 504 Units per Property
	0	1	2	3	4	5	6		0	1	2	3	4	5	6	
LAURELWOOD HOMES		3	17	6	3			29			2					2
McKENZIE VILLAGE		60	86	26				172			9	1				10
PENGRA COURT			16	6				22								0
MAPLEWOOD MEADOWS				35	3			38				2				2
PARKVIEW TERRACE		129	21					150		4	4					8
LINDEBORGE PLACE		40						40		2						2
VENETA VILLA		28	2					30			4					4
VENETA VILLA Sc. SITES			4	14	2			20								0
CRESVIEW VILLA		34						34		4						4
RIVERVIEW TERRACE		60						60								0
Total Units		354	146	87	8			595		10	19	3				32

Other Buildings (located in above developments or independently):

Type/Function of buildings: **Total Number of buildings** *(All locations):* **Notes/Comments:**

Office/Administrative 7 -

Community/Multi-purpose 7

Maintenance/Warehouse 13

Laundry/Special Purpose 17

Other: Common Area Bath 17

Other: _____

PROPERTY DESCRIPTIONS

The Housing Authority, owns and manages five hundred, ninety-five (595) units of conventional public housing, excepting RAD-excluded properties, at ten (10) sites as shown in the charts below.

AMP 100 Laurelwood Homes, Florence, Oregon

Total Units	29
Year Built	1961/2010
One Bedroom	3
Two Bedrooms	17
Three Bedrooms	6
Four Bedrooms	3
Buildings	17
Property Age	3 Bldgs (53 yrs old) 14 Bldgs (5-9 yrs old)
Administrative, Community Room	1080 sq ft Mod in 2010
Maintenance Office/Shop	800 sq ft New in 2010

AMP 200 McKenzie Village, Springfield, Oregon

Total Units	172
Year Built	1963
One Bedroom	60
Two Bedrooms	86
Three Bedrooms	26
Buildings	86
Property Age	51 Yrs Old
<u>Administration Building</u>	51 yrs old; modernized many times over the last 20 yrs
Community Room	933 sq ft
Common Area Kitchen	130 sq ft
Common Area Bathrooms (4)	187 sq ft each
Office Space	2413 sq ft
Warehouse	960 sq ft
Hallways, Lobby, Reception	1665 sq ft
Parole & Probation	138 sq ft
Meeting Rooms	1665 sq ft
File Rooms	305 sq ft
Copy & Mail Rooms	470 sq ft
Mechanical, Electrical, Computer	214 sq ft
<u>Maintenance Building</u>	14 yrs old
Machine Shop	368 sq ft
Wood Shop	1260 sq ft
Paint Shop	255 sq ft
Storage Room	1325 sq ft
Duty Station	480 sq ft
Bathrooms (3)	54 sq ft each
Meeting Area/Common Kitchen	600 sq ft
Common Hallways	200 sq ft
Office Areas	600 sq ft
Materials and Parts Warehouse	1300 sq ft
Elevator System	

AMP 200 Pengra Court, Springfield, Oregon

Total Units	22
Year Built	1982
Two Bedrooms	16
Three Bedrooms	6
Buildings	12
Property Age	32 yrs old
Maintenance Shop	195 sq ft.
Management Office	122 sq ft
Laundry Room	195 sq ft.

AMP 300 Maple Wood Meadows, Eugene, Oregon

Total Units	38
Year Built	1991
Three Bedrooms	35
Four Bedrooms	3
Buildings	20
Property Age	23 yrs old
Community Room/Office/Shop	1440 sq ft

AMP 400 Parkview Terrace, Eugene, Oregon

Total Units	150
Year Built	1964
One Bedrooms	129
Two Bedrooms	21
Buildings	1
Property Age	50 yrs old
Two Elevator Systems	Mod 2011
Landings (4)	1310 sq ft each
Lobby/Comm Rm/Manager	1700 sq ft
Rec Room	500 sq ft
Common Area Bathrooms (4)	
Laundry Rooms (7)	30 sq ft each
Maintenance Rooms	500 sq ft
Boiler Room	Mod 2008

AMP 500 Lindborg Place, Junction City, Oregon

Total Units	40
Year Built	1965
One Bedrooms	40
Buildings	1
Property Age	49 yrs old
Comm Room/Kitchen/Office	1035 sq ft
Management Office	160 sq ft
Maintenance Shop	305 sq ft
Boiler Room	Mod 2008
Elevator System	Mod 2011
Laundry Rooms (2)	25 sq ft each
Common Area Bathrooms (2)	55 sq ft each

AMP 500 Veneta Villa, Veneta, Oregon

Total Units	30
Year Built	1969/Mod 2001
One Bedrooms	28
Two Bedrooms	2
Buildings	9
Property Age	45 yrs/ Mod 12 yrs
Office/Maintenance	680 sq ft
Laundry Room	380 sq ft

AMP 500 Veneta Scattered Sites, Veneta, Oregon

Total Units	20
Year Built	1969/Mod 2001
Two Bedrooms	4
Three Bedrooms	14
Four Bedrooms	2
Buildings	10 Duplexes
Property Age	45 yrs old

AMP 600 Cresview Villa, Creswell, Oregon

Total Units	34
Year Built	14 (1966) 20 (1983)
One Bedrooms	34
Buildings	9
Property Age	(14) 48 yrs/(20) 31 yrs
Comm Room/Common Kitchen	1,175 sq ft/ Mod 2014
Common Area Bathrooms (2)	30 sq ft each
Laundry Room	255 sq ft
Maintenance Office/Shop	275 sq ft

AMP 600 Riverview Terrace, Cottage Grove, Oregon

Total Units	60
Year Built	1967
One Bedrooms	60
Buildings	1
Property Age	47 yrs old
Elevator Systems (2)Mod 2012	
Comm Room/ Common Kitchen	1825 sq ft
Common Area Bathrooms (2)	67 sq ft each
Foyer Areas (5)	1440 sq ft each
Laundry Areas (5)	135 sq ft each
Maintenance Shop	200 sq ft
Management Office	225 sq ft.

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:]

General Conditions for Non-Construction Contracts

Section I — (With or without Maintenance Work)

EXHIBIT D

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.

-
- (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 thereof 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 subcontractor/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

PROFESSIONAL SERVICES AGREEMENT

FOR [INSERT PROJECT NAME]

This Agreement is entered into this ____ day of _____, 2019 (Effective Date), by and between Homes for Good Housing Agency ("Agency") and _____ ("Contractor"), to provide _____ services for _____ ("Project") located at _____. All terms of the following exhibits are hereby incorporated by reference into this Agreement, and Contractor agrees to comply with each:

Exhibit A – Scope of Work

Exhibit B – Professional Fees

Exhibit C – Insurance Coverage Required

Exhibit D – Public Contracting Requirements

WHEREAS, Agency has a need for the type of professional services provided by Contractor;

WHEREAS, Contractor agrees that it is qualified to perform the services and desires to provide those services to Agency;

NOW, THEREFORE, THE PARTIES AGREE:

1. Term. The Term of this Agreement shall extend from the Effective Date, above, to _____, 2025 or as stated in the Scope of Work, or earlier terminated pursuant to provisions of this Agreement.
2. Scope of Work.
 - 2.1 Generally, Contractor shall provide Agency all materials and services associated with providing _____ services for the Project.
 - 2.2 Specifically, Contractor shall provide the _____ services for the Project, as specified in the attached **Exhibit A**, "Scope of Work."
 - 2.3 If Agency requests Contractor to expand the Scope of Work, Contractor will submit a requested change in work and price, if any, in writing to Agency with associated explanations for the changes. All modifications to the Scope of Work shall be in writing and signed by an authorized representative of each party before Contractor undertakes any such work or incurs associated costs. Any additional work will be provided on a time and expense basis up to an agreed upon not-to-exceed price, which will be added to the compensation set in Section 3 of this Agreement.
3. Compensation.
 - 3.1 In consideration for Contractor's performance of the Scope of Work, Agency agrees to pay, and Contractor agrees to accept, Compensation in the maximum not to exceed amount of _____, based upon the fees set forth in the

attached **Exhibit B**, "Professional Fees." Contractor shall not perform and Agency shall not pay for Contractor's services which are outside the Scope of Work, unless this Agreement is amended per Sections 2.3 and 16.

3.2 Agency shall not be obligated to pay any amount greater than that stated in Section 3.1. Contractor shall perform such additional work as may be necessary to correct errors in the services required under this Agreement without undue delays and without additional cost.

3.3 Invoices for Contractor's services shall be based upon Contractor's fees and hourly rates as set forth in **Exhibit B**. These amounts shall be billed to the Agency in summary form, detailing the previous month's fees and costs and the percentage of the Project completed to date, on or about the 15th day of each month for all services performed through the last day of the prior month. Backup invoices, supporting documentation, and records evidencing the progress made on the Project to date shall be provided by Contractor at Agency's request.

3.4 Payments.

3.4.1 Agency will review Contractor's invoice and within ten (10) days of receipt notify Contractor in writing if there is a disagreement or dispute with the invoice. If there are no such disputes, Agency shall pay the invoice amount in full within thirty (30) days of invoice send date.

3.4.2 If Agency fails to make any payment due Contractor for services and expenses within thirty (30) days of the send date on Contractor's invoice therefore, late fees will be added to amounts due Contractor at the rate of 1.0 percent (1%) per month from original invoice date. In addition, Contractor may, after giving seven (7) days' written notice to Agency, suspend services under this Agreement until Contractor has been paid in full all amounts due for services, expenses, and charges, except any invoices in dispute. Invoices in dispute are not subject to such late fees until such time as they are no longer in dispute.

3.4.3 Agency shall reimburse Contractor for pre-approved expenses reasonably incurred by Contractor in furtherance of its duties under this Agreement. Such expenses may include mileage, meals, or hotel accommodations. Agency shall not reimburse for any expense, unless Contractor first obtains Agency's prior written authorization before incurring such expense. Contractor will provide appropriate documentation and receipts of such expenditures when submitting them for reimbursement.

4. Covenants. Contractor agrees to faithfully and diligently perform the duties required by the Agreement and will not engage in any activity that is or may be contrary to the welfare, interest, or benefit of the Agency. At all times during the term of this Agreement, Contractor shall have all licenses and permits necessary to perform the Scope of Work.

5. Agency Responsibilities.

- 5.1 In addition to Agency's payment obligations, as set forth in Section 3.4 above, Agency shall report the total amount of all payments to Contractor, including any expenses, in accordance with federal Internal Revenue Services and State of Oregon Department of Revenue Regulations.
- 5.2 Agency shall make all provisions for Contractor to enter upon public and private property as necessary to perform Contractor's duties under this Agreement. Agency shall also provide all licenses and permits necessary to perform this Agreement.

6. Independent Contractor.

- 6.1 Contractor is an independent contractor for all purposes and is not entitled to any compensation other than the compensation provided for under this Agreement. The performance of this Agreement is at Contractor's sole risk. Contractor is not an officer, employee or agent as those terms are used in ORS 30.265. Notwithstanding the Oregon Tort Claims Act or provisions of any other contract, Contractor is acting as and assumes liability of an independent contractor as to any claims between Agency and Contractor.
- 6.2 While Agency reserves the right to set various schedules and evaluate the quality of Contractor's completed work, Agency cannot and will not control the means and manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work provided for under this Agreement.
- 6.3 Contractor is responsible for all federal and state taxes applicable to compensation and payment paid to Contractor under this Agreement and will not have any amounts withheld by Agency to cover Contractor's tax obligations. Any subcontractor hired by Contractor is similarly responsible.
- 6.4 Contractor is not eligible for any Agency fringe benefit plans.
- 6.5 It is recognized that Contractor may or will be performing work during the term for other parties and that Agency is not the exclusive user of the services that Contractor provides.
- 6.6 Contractor, its subcontractors, if any, and all employees working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide Worker's Compensation coverage for all their subject workers or be exempt under ORS 656.126.

7. Federal Funds. If payment under this Agreement is to be charged against federal funds, Contractor is not currently employed by the federal government and the amount charged does not exceed Contractor's normal charge for the type of service provided.

8. No Benefits. Contractor will not be eligible for any federal Social Security, state Worker's Compensation, unemployment insurance or Public Employees Retirement

System benefits from payments made pursuant to this Agreement, except as a self-employed individual.

9. PERS. Contractor is not a member of the Oregon Public Employees Retirement System and is not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.
10. Indemnity. To the extent permitted by law, Contractor shall protect, defend, indemnify and hold the Agency harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Agreement or Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of Agency.
11. Insurance. Contractor shall provide all insurance called for on **Exhibit C**, "Insurance Coverage Required". Carrier shall be rated A- or better by A.M. Best, and authorized to do business in the State of Oregon.
 - 11.1 Contractor shall: (a) provide the Agency with a copy of a current Certificate of Insurance with the coverages listed on **Exhibit C** to: Homes for Good Housing Agency, _____, 177 Day Island Road, Eugene, OR 97401; (b) include Agency as an additional insured for insurance required in **Exhibit C**; and (c) provide Agency with 30-day notice prior to cancellation.
 - 11.2 Should any policy be canceled before final payment by Agency to Contractor and should Contractor fail to immediately procure other insurance as specified, Agency reserves the right to procure such insurance and to deduct the cost thereof from any sum due Contractor under this Agreement. Any insurance bearing any adequacy of performance shall be maintained after completion of the Agreement for the full guaranteed period.
 - 11.3 Responsibility for payment of damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from Contractor's operation under this Agreement.
12. Public Contracting Requirements. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work done under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contract Code including ORS 279B.020, 279B.220, 279B.230, and 279B.235, as more particularly set forth on **Exhibit D**, "Public Contracting Requirements."
13. Non-Collusion. By execution of this Agreement, Contractor certifies under penalty of perjury that Contractor and all of its employees are independent of Agency and Contractor has not employed any person to solicit or secure this Agreement for a commission, percentage, brokerage or contingent fee.

14. Standard of Care. The standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by professionals performing the same or similar services at the time such services are performed. Contractor will re-perform any services not meeting this standard without additional compensation, and shall perform such additional work as may be necessary to correct errors required under this Agreement without undue delay and without additional costs.
15. Work Product. All work performed by Contractor and compensated by Agency pursuant to this Agreement shall be the property of Agency upon full compensation for that work performed or document produced by Contractor, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers and grants to Agency all rights of reproduction and the copyright to all such documents. However, in the event Agency reuses or modifies any materials furnished to Agency by Contractor, without Contractor's involvement or consent, then Contractor shall not be responsible for the materials.
16. Amendment. Modifications or amendments to this Agreement shall be effective only if in writing and signed by an authorized representative of each party.
17. Dispute Resolution. The parties shall exert every effort to cooperatively resolve any disagreements they may have under this Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, the parties shall submit all disputes, including interpretation, rescission, validity or enforcement, except for claims which may have been waived by the making or acceptance of final payment, to arbitration in accordance with the Oregon Uniform Arbitration Act, ORS 36.600, et seq. Arbitration shall be requested by delivering to the other party a written request for arbitration. Within five (5) days of receipt of such request, the parties shall select a mutually agreeable arbitrator and designate mutually agreeable rules of arbitration. If the parties cannot agree upon an arbitrator within five (5) days, an arbitrator may be appointed by the presiding judge of the Lane County Circuit Court, upon the request of either party submitted in accordance with ORS 36.645. If the parties have not designated mutually agreeable rules of arbitration at such time as the arbitrator is appointed, the arbitrator shall adopt rules for the arbitration. The arbitrator's decision shall be binding upon the parties. Arbitrator shall establish rules for the arbitration which include the following conditions:
- 17.1 The location of the arbitration shall be in Eugene, Oregon;
- 17.2 The Agreement is to be governed by and under the laws of the State of Oregon;
- 17.3 Each party shall bear its own costs (except arbitration filing costs), witness fees, and attorney fees. The prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements; and
- 17.4 Judgment upon award rendered by the Arbitrator may be entered in a court in Lane County, Oregon.
18. Continuation During Disputes. Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work

pending resolution of a dispute and Agency shall make payments as required by the Agreement for undisputed portions of work.

19. Consent to Jurisdiction. The parties hereby consent to jurisdiction of the Lane County Circuit Court, Lane County, Oregon, over all legal matters pertaining to this Agreement, including, but not limited to, its enforcement, interpretation or rescission.

20. Termination.

20.1 Termination for Convenience. This Agreement may be terminated by mutual consent of the parties upon written notice at any time. In addition, Agency may terminate all or part of this Agreement for any or no reason by giving seven (7) days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Upon termination under this section, Contractor shall be entitled to payment in accordance of the terms of this Agreement for work completed and accepted before termination, less previous amounts paid in any claims Agency has against Contractor. Contractor shall submit an itemize invoice for all uncompensated work completed before termination and all Agreement close-out costs actually incurred by Contractor. Agency shall not be liable for any costs invoiced later than thirty (30) days after termination, unless Contractor can show good cause beyond its control for the delay.

20.2 Termination for Default.

20.2.1 If the Agency fails to perform in the manner called for in this Agreement or if the Agency fails to comply with any other provisions of the Agreement, the Contractor may terminate this Agreement for default after giving the Agency the notice and opportunity to cure required by this Section. Prior to termination for default, the Contractor must give the Agency written notice of the breach and of the Contractor's intent to terminate. If the Agency has not entirely cured the breach within fifteen (15) days of the date of the notice, then the Contractor may terminate the Agreement at any time thereafter by giving the Agency a written notice of termination.

20.2.2 If the Contractor fails to perform in the manner called for in this Agreement or if the Contractor fails to comply with any other provisions of the Agreement, the Agency may terminate this Agreement for default. Termination shall be affected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor shall be paid the Agreement price only for services performed in accordance with the manner of performance as set forth in this Agreement.

21. Remedies. In the event of breach of this Agreement, the parties shall have the following remedies:

21.1. If terminated under Section 20.2 by Agency due to a breach by Contractor, Agency may complete the work either itself, by agreement with another

Contractor, or by a combination thereof. If the cost of completing the work exceeds the compensation to Contractor as provided under this Agreement, then Contractor shall pay to Agency the amount of the reasonable excess.

- 21.2. In addition to the above remedies for a breach by Contractor, Agency also shall be entitled to any other equitable and legal remedies that are available.
- 21.3 If Agency breaches this Agreement, Contractor's remedy shall be limited to termination of the Agreement and receipt of Agreement payments to which Contractor is entitled.
- 21.4 Agency shall not be liable for any indirect, incidental, consequential, or special damages under the Agreement or any damages arising solely from termination the Agreement in accordance with its terms.
22. Disengagement Agreement. Upon receiving a notice of termination, and except as otherwise directed in writing by Agency, Contractor will continue to perform services to the date agreed upon as the termination date.
23. Force Majeure. Contractor shall not be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such failure is due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of civil or military authorities, fires, floods, windstorms, earthquakes, strikes or other labor disturbances, civil commotion or war.
24. Waiver. Failure of the Agency to enforce any provision of the Agreement shall not constitute a waiver or relinquishment by the Agency of the right to such performance in the future nor of the right to enforce that or any other provision of this Agreement.
25. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of any confidential information to which it is exposed by reason of this Agreement. Contractor warrants that its employees assigned to this Agreement shall maintain necessary confidentiality. Contractor shall require similar agreements from any Contractor subcontractors to maintain the confidentiality of Agency information.
26. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

AGENCY:

CONTRACTOR:

Homes for Good Housing Agency
177 Day Island Road
Eugene, OR 97401

27. Assignment. Contractor shall not assign or subcontract any of its obligations under this Agreement without Agency's prior written consent, which may be granted or withheld in Agency's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Agreement. Agency's consent to any assignment or

subcontract shall not release Contractor from liability under this Agreement or from any obligation to be performed under this Agreement, whether occurring before or after such consent, assignment, or subcontract, and Agency shall incur no obligation other than its obligations under this Agreement.

28. Severability. If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
29. Facsimile Signatures. The delivery of signatures to this Agreement by facsimile transmission shall be binding as original signatures.
30. Entire Agreement. This Agreement shall be the exclusive agreement between the parties for the Project.
31. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by an authorized representative of each party.

AGENCY

DATE: _____

BY: _____

Jacob Fox, Executive Director
Homes for Good Housing Agency

CONTRACTOR

DATE: _____

BY: _____

NAME: _____

TITLE: _____

COMPANY: _____

ADDRESS: _____

EXHIBIT A

Scope of Work

SAMPLE

EXHIBIT B
PROFESSIONAL FEES

SAMPLE

EXHIBIT C

INSURANCE COVERAGE REQUIRED

General Liability Insurance with a limit of no less than \$2,000,000 per occurrence and an aggregate limit of no less than \$4,000,000.

Homes for Good Housing Agency listed as additional insured.

Professional Indemnity Insurance (Errors & Omissions) \$1,000,000 minimum.

Workers' Compensation Insurance for Contractor's employees at no less than statutory limits.

Automobile Insurance with liability coverage at no less than statutory limits.

EXHIBIT D

PUBLIC CONTRACTING REQUIREMENTS

- (1) Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1).
- (2) Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract. ORS 279B.220(2).
- (3) Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3).
- (4) Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.617. ORS 279B.220(4).
- (5) Contractor agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the Agency may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or their surety from their or its obligation with respect to any unpaid claim. If the Agency is unable to determine the validity of any claim for labor or material furnished, the Agency may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid.
- (6) Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1).
- (7) All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2).
- (8) Contractor shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq). ORS 279B.235(3).
- (9) The Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location

frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2).

(10) All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid. ORS 701.430.

(11) The contract may be canceled at the election of Agency for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.

(12) Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385. Contractor represents and warrants that the contractor has complied with the tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Contractor covenants to continue to comply with the tax laws of this state during the term of the public contract. Contractor's failure to comply with the tax laws of this state before the contractor executed the public contract or during the term of the public contract is a default for which a contracting agency may terminate the public contract and seek damages and other relief available under the terms of the public contract or under applicable law. ORS 279B.045 and 305.385.

(13) Contractor certifies that it has not discriminated and will not discriminate against minorities, women, emerging small business enterprises or a business enterprise that is controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontractors. ORS 279A.110.

(14) As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident contractor and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120.