



REQUEST FOR PROPOSALS
Property Management Services

RFP 24-02

DUE DATE: March 28, 2024 @ 2:00PM





Request for Proposals (RFP #24-02)
Property Management Services
Sierra Meadows Apartments

February 19, 2024

I. Introduction/Background

Harris County Housing Authority (HCHA), referred to as the (Owner), is requesting proposals from qualified property management companies, referred to as the (Respondent), to provide Property Management Services for Sierra Meadows Apartments, a 90-unit 55+ Senior Community located in Humble, TX.

The Owner intends to solicit proposals, evaluate the proposals, conduct oral presentations with the Respondents in the competitive range, verify the information presented, and award a contract to the responsible firm whose proposal is most advantageous to the Owner, with price and other factors considered.

Prospective Respondents desiring any explanation or interpretation of this solicitation must submit the request in writing no later than March 1, 2024, by 5:00 PM (CST). The request must be e-mailed to **Attn: RFP 24-02 Property Management Services** at **Procurement@hchatexas.org**. Any information given to a prospective Respondent about this solicitation will be furnished to all other prospective Respondents as a written amendment to the solicitation. All amendment(s) to this solicitation, if issued, will be posted on HCHA's website www.hchatexas.org. All Respondents are encouraged to check the HCHA website for amendment(s) issuance.

The Owner will enter into a two-year contract for Property Management Services, with an option to renew the contract for an additional two years. The renewal period is subject to the Owner's approval. The Property Management Services will include, but not be limited to, the following duties and responsibilities:

- 1) Signage packet, brochure design, and area market rent analysis;
- 2) New tenant intake, including marketing, establishing and maintaining a site-based waiting list, determination of applicant eligibility, applicant screening, and tenant selection;
- 3) Lease execution, including explaining the lease and all attachments;
- 4) Collection of rent and charges in addition to rent;
- 5) Lease enforcement;
- 6) Full maintenance repair of the development;
- 7) Full responsibility for hiring and firing of staff and staff training;
- 8) Annual reexaminations of income and family composition;
- 9) Annual unit inspections;
- 10) Unit turnover, including preparing vacated units for re-leasing and leasing;
- 11) Capital improvements and repairs;
- 12) Purchase of all required supplies and services. Full fiscal management responsibilities including preparing annual operating budgets,

- monthly financial reporting, and keeping expenses and income within approved budget amounts;
- 13) Providing weekly and monthly reports as specified by the Owner;
 - 14) Assisting with the identification and selection of the Social Service Provider to ensure a full array of services is being delivered to support the resident population. Administering the Social Services Provider's Contract.

A. Submission Package

The complete submission package must be emailed to Procurement@hchatexas.org and received by HCHA (the Owner), by March 28, 2024, at 2:00 PM (CST). All copies of the submission package must be emailed and labeled as follows:

**Property Management
Services- RFP #24-02
Due Date and Time: March 28, 2024, 2:00
PM (CST)
Name of Respondent _____**

The submission package must be signed by an officer of the Respondent who is legally authorized to enter into a contractual relationship in the name of the Respondent. RFP submissions may also be emailed as a PDF attachment to Procurement@hchatexas.org. Proposals by mail, telegram, telephone, facsimile, or handwritten proposals, will not be accepted by HCHA.

B. Anticipated Schedule of Events

The anticipated schedule for the RFP is as follows:

Event	Date
Advertised	February 18, 2024 & February 25, 2024
Post on Website	February 19, 2024
Receipt of Written Questions	March 1, 2024 (5:00 pm, cst)
Response to Written Questions	March 8, 2024
RFP Submission Deadline	March 28, 2024 (2:00 pm, cst)

C. Expense of Submission Package

All expenses involved with the preparation and submission of the proposal, site visit, and all oral interviews must be borne by the Respondent.

D. Overview – Development

Sierra Meadows Apartments
9835 N. Sam Houston Pkwy E, Humble, Texas 77396

Census Tract: 2322

Acreage: 9.7

Date of Initial Occupancy: June 2011

1. **Building Type:** The development is comprised of 90 units of affordable senior housing for residents age 55 and older, comprising 35 one-bedroom/one-bathroom units and 53 two-bedroom/two-bathroom units. The community design features a three-story L-shape tower and nine one-story four-plex and five-plex villas. The site features a landscaped 18-hole golf course with a fountain, and sidewalk areas surrounding the landscaped green space. The clubhouse features a spacious activity room, business center, fitness center, hair salon, swimming pool and covered porch. The architectural design is of a Mediterranean style with a stucco and stone exterior.

2. **Rent Restrictions:**

1 bedroom	3 units	30% AMI or below
1 bedroom	20 units	50% AMI or below
1 bedroom	17 units	60% AMI or below
2 bedroom	5 units	Unrestricted
2 bedroom	2 units	30% AMI or below
2 bedroom	19 units	50% AMI or below
2 bedroom	24 units	60% AMI or below

3. **Area Resources:**

- Shopping is available in the area
- Located along a regular Metro bus & rail routes
- Near the UTMB Medical Center

E. General Requirements

The selected Respondent must be prepared to assume management responsibilities.

HCHA (the Owner) will utilize a two-stage selection process. First, the Housing Authority will rate and rank written proposals based on the selection criteria contained herein. Next, the Respondent falling in the competitive range will be invited to an interview and may also be asked to provide Best and Final offers. Selection will be made based on those who score the highest in qualifications, price, and other factors considered, and the results of the interviews as stated in the evaluation and selection criteria.

The Owner is looking for price-competitive Respondents with demonstrated, successful multi-family property management experience and knowledge.

F. HCHA Options

- 1) HCHA (the Owner) may, at its sole and absolute discretion for any reason, reject any and all proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any informalities in this RFP or the proposals received as a result of this RFP. Any decision as to who shall receive a contract award, or whether or not an award shall ever be made as a result of this RFP, shall be at the sole and absolute discretion of the Owner.
- 2) In no event will the Owner permit modifications to a response statement after the submission deadline unless such modification is non-substantive.

G. Qualification Statements Open to the Public

Prospective Respondents are notified that all information submitted as part of or in support of this RFP may be subject to public disclosure in compliance with state and federal laws.

H. Level of Effort and Funding

It should be clearly understood that all services requested in the RFP are on an "as-needed basis" and that the dollar values referred to in this RFP in no way constitute a guarantee of a certain dollar amount or a finite scope of services that may be required of the selected Respondent. Any increase in additional services shall be negotiated, and the selected Respondent may be required to execute an amendment to the management agreement.

II. MINIMUM REQUIREMENTS

The Respondent will be deemed unresponsive to this RFP if it does not meet the following minimum threshold criteria:

- 1) Currently manages a portfolio of multi-family housing in excess of 500 units
- 2) Possess a Certified Property Management certificate.
- 3) Has current or previous experience directly managing affordable housing, LIHTC & HOME Investment Partnership.
- 4) Complies with all of the submission requirements.

If the Respondent does not meet the above minimum threshold requirements, its proposal may not be evaluated.

III. TERMS AND CONDITIONS

Rules, Regulations, and Licensing Requirements

A. Rules, Regulations, and Licensing Requirements

The Respondent and staff must possess all necessarily required license(s) to do business in Harris County and the State of Texas. In addition, the Respondent shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein,

especially those applicable to conflict of interest. Respondents are presumed to be familiar with all federal, state, and local laws, ordinances, codes, rules, and regulations that may in any way affect the services.

B. Term of Management Agreement

The successful Respondent shall enter into a management agreement. The management agreements to be awarded shall be for two years with a two-year renewal option. The renewal option is subject to HCHA's (the Owner's) approval. The management agreement includes a provision for termination for convenience by Respondent or Owner with a 30-day written notice. The agreement will also outline situations where the successful Respondent can be terminated immediately "for cause."

C. Performance Standards

1. Vacancy Turnaround.

The Owner's monthly standard for vacancy turnaround time is 25 days. This includes make-ready and lease-up time. The monthly report must include the following for each vacated unit:

- (i) The date the unit was vacated.
- (ii) The name of the former resident who vacated.
- (iii) The unit number of the vacated unit.
- (iv) The size of the vacated unit.
- (v) Reason tenant vacated unit.
- (vi) The date maintenance began to "make ready" the unit.
- (vii) The date maintenance completed all "make ready" repairs.
- (viii) The date the unit was re-leased.

2. Work Orders.

- (ix) **Emergency.** Emergency work orders address an immediate threat to life, health, and safety to property or the resident or are related to fire safety. The Owner's standard for an emergency work order is for all orders to be completed or abated within 24 hours.
- (x) **Non-Emergency.** Non-emergency work orders address conditions that do not pose an immediate threat to life, health, or safety to property or the resident or are not related to fire safety. The Owner's standard for completing non-emergency work orders is within four days.
- (xi) **Inspections.** The Owner's annual standard for inspections is for all Housing Quality Standards (HQS) inspections to be conducted each year. Further, the property manager must inspect all units within 12 months of the previous HQS inspection.

3. Recertifications.

The Owner's annual standard for recertifications as applicable is that each tenant household must be recertified no more than ninety (90) days and no less than thirty (30) days prior to the tenant's lease expiration. Tenants may

be contacted regarding recertification no earlier than 120 days prior to the tenant household's lease expiration. The monthly report must indicate for each tenant whose lease expired during the preceding month the date the tenant was contacted regarding recertification and the date recertification was completed.

D. Resolving Conflicts and Ambiguities

All of the remaining provisions in the Management Agreement shall remain in full force and effect. In the event that any of the provisions herein conflict or create ambiguities with the Agreement, the resolution of such conflict or ambiguity shall be that which most benefits the Owner.

Retention of Management Fee

For each performance standard that is not met monthly by the Respondent, the Owner may retain a portion of the monthly base fee to be paid to the Respondent. The terms defining the amount of retention by Owner and the opportunity for cure by Manager are set forth below:

1. 10% Retention. The Owner may retain up to 10% of the monthly base fee if the Respondent fails to meet the required performance standards in any of the following areas in a given month:
 - i. Tenant Accounts Receivable;
 - ii. Vacancy rate;
 - iii. Vacant unit Turnaround; and
 - iv. Work Order completion time.

The 10% retention shall apply to each performance standard separately. For example, if the Respondent fails to meet three performance standards in a month, the retention for that month would be 30%.

The Respondent may cure any monthly deficiency for the above performance areas by bringing the cumulative average for all completed months in the year into compliance with the performance standard, which will entitle the Respondent to pay any fee retained for that performance standard.

2. Unit-based Retention. For the Inspection and Recertification performance measures, the Owner may retain an amount equal to the annual fee per unit (i.e., the monthly per-unit fee multiplied by 12) if the Respondent fails to meet the required performance standard for any unit during the calendar year. See the following examples:
 - i. Example 1: The Respondent fails to meet the inspection standard for three units in a given month. The Owner may retain an amount equal to the annual fee per unit multiplied by 3.
 - ii. Example 2: The Respondent fails to meet the performance standard for recertification for two units and inspection for two units. The Owner may retain an amount equal to the annual fee per unit multiplied by 4.

- iii. Example 3: The Respondent fails to meet both the inspection and recertification performance for the same unit. The Owner may retain an amount equal to the annual fee per unit multiplied by 2.

For the retention based on the annual fee per unit under this section, the Manager cannot cure any failure to meet the required performance standard.

Manager may submit, as part of its regular monthly report, an explanation for any failure to meet a performance standard, and the Owner shall determine in its sole discretion whether an explanation is sufficient to avoid retention by Owner. The Owner shall notify Manager in writing within fifteen days of the receipt of any monthly report if the Owner decides to retain any portion of the management fee.

Appealing The Owner's Retention of Management Fee

The Respondent may appeal the Owner's decision to retain a percentage of the management fee. Appeals must be submitted in writing to the Owner to the attention of the Chief Executive Officer of HCHA(the Owner). Appeals must contain as attachments any evidence necessary to support any assertion made in the appeal. The Owner shall respond to a properly submitted appeal within thirty (30) days of its receipt and shall state its decision regarding the appeal. Decisions regarding any appeal shall be made at the Owner's sole discretion and shall be final.

Assignment

The successful Respondent shall not enter into any subcontract, retain consultants, or assign, transfer, convey, sublet, or otherwise dispose of this contract, or any or all of its rights, title, or interest therein, or its power to execute such contract, to any person, company or corporation without the prior written consent of the Owner. In the event of a change of control of the successful Respondent, the Owner will have the option to either continue the Property Management Agreement in effect or immediately terminate the Property Management Agreement upon written notice of such termination to the successful Respondent.

Pertinent Federal Regulations with Regard to Nondiscrimination and Equal Opportunity

The requirements of Title VIII of the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964 relating to prohibitions against discrimination in housing and the benefits of federally funded programs because of race, color, religion, sex, or national origin must be met by the Respondent.

The Respondent must adhere to federal regulations prohibiting discrimination on the basis of age under the Age Discrimination Act of 1975 and prohibit discrimination against individuals with disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

The requirements of Executive Order 11246, relating to equal employment opportunity in connection with federally funded programs, must be met by the Respondent and as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

The Respondent must meet the requirements of Executive Orders 11625, 12432, and 12138 relating to the use of minority and women's business enterprises in connection with federally funded programs.

1. Personnel

In submitting their proposals, Respondent are representing that the person described in their proposals shall be available to perform the services described, barring illness, accident, or other unforeseeable events of a similar nature, in which case the Respondent must be able to provide a qualified replacement. Furthermore, all personnel shall be considered to be, at all times, the sole employees of the Respondent under its sole direction and not employees or agents of the Owner.

2. Availability of Records

The U. S. Department of Housing and Urban Development, the Inspector General of the United States, HCHA, Harris County Community Services Department, Texas Department of Housing and Community Affairs, and any duly authorized representatives of each shall have access to and the right to examine any and all pertinent books, records, documents, invoices, papers, and the like, of the firm(s) office or firm, which shall relate to the performance of the services to be provided.

3. Conflict of Interest

No employee, officer, or agent of the HCHA shall participate directly or indirectly in the selection or award of any contract if a real or apparent conflict is involved. Such conflict would arise when a financial or other interest in an agency selected for award is held by:

- i. An employee, officer, or agent involved in making the award; or
- ii. His/her relative including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, domestic partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister; or
- iii. His/her business or professional partner; or
- iv. An organization which employs, negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

IV. Conditions and Limitations

This RFP does not represent a commitment or offer by HCHA (the Owner) to enter into a contract or other agreement with an Respondent. The Respondent must bear all costs incurred in preparing this proposal. The proposal and any information made a part of the proposal will become a part of the Owner's official files without any obligation on the Owner's part to return it to the individual Respondent. By reference, this RFP and the selected Respondent proposal will become a part of any formal agreement between the Respondent and the Owner resulting from this solicitation.

The Owner reserves the right to waive any irregularities or informalities in any or all proposals or any part thereof. Failure to furnish all information requested may disqualify an Respondent.

The Owner reserves the right to request clarification of proposal data without changing the terms of the proposal.

The Respondent shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the Owner to influence consideration of a proposal.

The Respondent shall not collude in any manner or engage in practices with any other Respondent (s) which may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the proposal to be rejected. This prohibition is not intended to preclude joint ventures or subcontracts.

V. SUBMISSION REQUIREMENTS

Document Requirements

Respondent are requested to submit proposals based on the exact requirements specified in this RFP.

The following describes the minimum information offered by Respondent in their proposals must supply. It is open to all Respondent to give such supplementary facts or materials that they consider may be of assistance in the evaluation of the proposal submitted. Proposals that omit critical elements may be considered non-responsive. Each proposal shall include a Table of Contents listing the proposal contents. Proposal packages must contain, at a minimum, the following information and materials:

a. Letter of Transmittal

Signed by the person authorized to commit the organization to perform the services in the proposal.

b. Proposal Table of Contents

c. Respondent Experience

Respondents shall provide the following as evidence of Respondent 's experience in the order listed:

- i. Provide a description of the firm, including a list of the principals and their resumes and any joint venture partnerships.
- ii. A listing of all public, subsidized, and private multi-family housing currently managed by Respondent, with the name and contract representative of the property owners (who may be contacted as references), the length of the contract, address of the property, the form of subsidy (if applicable), type of property (elderly, family, mixed), number of units, and whether the property is an affordable housing project.
- iii. Evidence of the firm's experience managing low-income housing, elderly and/or assisted housing projects, and that the firm currently manages a portfolio in excess of 500 units.
- iv. Evidence of experience in management and lease-up, including experience in screening a high volume of tenant candidates.
- v. Evidence of experience in resident participation initiatives and the delivery of social supportive services for seniors.
- vi. Demonstration of knowledge of the management of affordable housing in the Houston rental market.
- vii. Evidence of the ability to develop and implement an effective marketing and pre-leasing plan.
- viii. Resumes and position descriptions of senior management members who would be assigned to oversee the project (for example, the regional property manager). Show an organizational chart of your staffing structure, including regional office locations.

- ix. An actual or prototypical budget and income and expense report for a property managed by the Respondent as evidence of the Respondent's financial reporting systems and expertise in operating matters.
- x. Year-end financial statements for the last three completed fiscal years for the Respondent.

d. Company's Affirmative Action Policy and Accomplishments

Provide a description of the Respondent's accomplishments related to ownership, personnel, and purchase of goods and services to this end.

e. Certifications and Affidavits

Respondent shall submit copies the following certifications and affidavit as attached in Section IX:

- i. A copy of the Respondent's applicable license to operate in the State of Texas or Corporate Property Management Certification.
- ii. Insurance certification showing the minimum limit(s) required in the management agreement.

f. Management Fee

The Respondent shall state its proposed management fee. The Respondent must describe the proposed fee to manage the property as a percentage of rent collected and provide a detailed breakdown of how calculated.

g. References

The Respondent shall submit five references. Three of the five references should be owners of properties currently being managed by the Respondent, and one of the five references should be a financial institution doing business with the Respondent.

h. Attachments

The Respondent agrees to complete all forms attached and return them with the bid or, if required by law, file the form with the appropriate agency. Respondents shall submit executed originals of the following:

Attachment C: Conflict of Interest Questionnaire (CIQ)

Attachment D: M/WBE Participation Form

Attachment E: Certifications and Representations of Respondents for Non-Construction Contracts (Form HUD 5369-C)

Attachment F: Form of Non-Collusive Affidavit

Attachment G: Certification of Payments to Influence Federal Transactions

Attachment H: Form 1295 Certificate of Interested Parties

VI. GENERAL REQUIREMENTS OF MANAGEMENT AGREEMENT

Respondent will be responsible for the full range of services customary of a property management company. In performing these duties, the Respondent must comply with all applicable federal, state, and local laws.

VII. EVALUATION/SELECTION PROCESS AND SELECTION CRITERIA

Proposals will be evaluated by an Evaluation/Selection Committee comprised of the appropriate HCHA staff with the appropriate experience and/or knowledge.

The Committee will present its recommendations to the Board of Commissioners of HCHA. Respondent will be evaluated on the following eight (9) factors. After the initial scoring of proposals, those deemed by the Committee to be within the competitive range will become finalists and be asked to appear for an oral interview to clarify issues and, if necessary, following the interview, to submit "best and final" offers.

After interviews and the receipt of best and final offers, each of those Respondents will be re-evaluated and re-scored using nine (9) factors (the original eight (8) factors and adding the tenth factor for site visit and management of Respondents property, worth 10 points). The Respondent with the highest overall score will be selected as the property manager of choice. Prior to the final selection of Respondent, HCHA (the Owner) will undertake due diligence of Respondent including, but not limited to reference checks, affirmation of financial condition, etc. Any material discrepancies found as a result of due diligence may cause the Housing Authority to eliminate the Respondent from further consideration. The Owner, in its sole discretion, may then undertake due diligence on the Respondent with the next highest score from among those Respondents in the competitive range or undertake a new procurement.

1.	Demonstrated successful experience and capability of the Respondent in providing services described in this RFP.	20 points
2.	Demonstrated successful experience and capability of the proposed staff in managing senior affordable housing	20 points
3.	Demonstrated ability of the Offeror Respondent to provide the resources (staffing, equipment, office facilities, etc.) necessary for the timely and efficient implementation of goals and objectives as described in the RFP.	15 points
4.	Proposed management fee, administrative fees, and level of service are reasonable and appropriate in relation to the services requested	20 points
5.	The Respondent's proposed methodology is reasonable and logical and will ensure that Owner requirements will be met and indicates that the Respondent has a clear understanding of the scope of services required.	10 points
6.	Demonstrated experience in the administration of the delivery of resident social supportive services.	10 points
7.	Demonstrated extensive and established financial management system and tenant database capability.	10 points
8.	Demonstrated experience and/or commitment to using Section3 and/or MWBE vendors for services at the property.	5 points
9.	Site visit and management of Respondent s properties (for Finalists only).	10 points

TOTAL: 120 points

VIII. DISCLAIMER

The Owner reserves the right to refuse and reject all proposals and not award any contract. Further, except for the date of acknowledgment and the date the proposal is due, the Owner is not obligated to meet the schedules contained in their solicitation but fully intends to do so.

IX. ATTACHMENTS

All attachments of this RFP are incorporated herein as if fully copied verbatim and made part of this RFP

Attachment A: Listings of Properties Currently Under Management

Attachment B: Sample Management Agreement

Attachment C: Conflict of Interest Questionnaire (CIQ)

Attachment D: M/WBE Participation Form

Attachment E: Certifications and Representations of Respondents for Non-Construction Contracts (Form HUD 5369-C)

Attachment F: Form of Non-Collusive Affidavit

Attachment G: Certification of Payments to Influence Federal Transactions

Attachment H: Form 1295 Certificate of Interested Parties

Attachment I: Affirmative Action for Disabled Workers

Attachment J: General Conditions for Non-Construction Contracts HUD Form 5370-C

Attachment K: Declaration (Required Submission)

Attachment L: Section 3 Policy

Attachment M: Ethics Policy

Attachment A

Listing of Properties Currently Under Management

Name of Firm:

Date:

Total Number of Units:

Total Number of Units in the Houston area:

[illegible]

ATTACHMENT B

SAMPLE MANAGEMENT AGREEMENT

DRAFT

SAMPLE

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") is made as of ___, 2024, by and between a Texas liability company ("Owner"), and _____ ("Manager").

A. Owner is the owner of a 90-unit multifamily seniors apartment complex intended for rental to persons of low and moderate-income, known as Sierra Meadows and located in Harris County, Texas (the "Apartment Complex").

B. Owner is a wholly-owned subsidiary of the Harris County Housing Authority ("HCHA").

C. Partial funding for the Apartment Complex came from the Harris County Community Services Department in HOME grants to HCHA, LIHTC funds, and private debt/financing, which place restrictions on qualified tenants for the Apartment Complex.

D. Manager is engaged in the business of property management.

F. Owner desires to engage Manager as a property manager under the terms set forth in this Agreement.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Owner and Manager mutually agree as follows:

1. Definitions.

"Affiliate" means any person that directly or indirectly, through one or more intermediaries, controls, or is controlled by or is under common control with a designated Person.

"Budget" shall mean the Budget for the Apartment Complex as prepared by Manager and approved by Owner from time to time pursuant to Section 6(e).

"HOME" means Community Development Block Grant to HCHA from the Harris County Community Services Department.

"Confidential Information" shall mean the books, records, business practices, methods of operations, computer software, financial models, financial information, policies and procedures, and all other information relating to Owner and the Apartment Complex (including any such information relating to the Apartment Complex generated by Manager), which is not available to the public.

"Excluded Revenues" means any revenues from condemnation or casualty proceeds, any cash advances from Owner or any partner of Owner, loss of rental insurance; refunds or rebates from suppliers

or vendors, revenue from the sale of any personal or real property of Owner, late charges, cleaning fees, pet fees, deposits, or from any source other than the customary operations of the Apartment Complex.

“Grants” means the HOME grants to HCHA for the construction of the Apartment Project from the Harris County Community Services Department.

“Gross Operating Revenues” means the actual monthly cash collections from the customary operations of the Apartment Complex consisting of rental, vending machine, and laundry room receipts net of any costs or expenses, forfeited or applied deposits, rent claim settlements net of any collection fees, lease termination or modification payments, and other operating receipts, excluding applicable sales tax and refundable deposits; Gross Operating Revenues shall not include Excluded Revenues.

“HUD” means the US Department of Housing and Urban Development.

“Person” means any individual, partnership, corporation, trust, limited liability company, governmental authority, or other entity.

“Project Lender” shall mean any Person in its capacity as a holder of a loan on the Apartment Complex.

“Project Loans” shall mean the loans and indebtedness of the Owner to the Project Lender(s).

“Regulatory Agreement” means, to the extent applicable and collectively, any regulatory agreements and/or any declaration of covenants and restrictions heretofore or hereafter entered into between the Owner and/or HCHA and any applicable government agency setting forth certain terms and conditions under which the Apartment Complex is to be operated, including without limitation the Grants.

“Reserve For Replacements” means the cash-funded reserve for replacements required by any Project Lender in connection with the Project Loans or Harris County Community Services Department in connection with the Grants, which shall be used exclusively for replacement expenditures (and not operational expenditures) for the Apartment Complex.

2. Appointment of Manager. On and subject to the terms and conditions of this Agreement, Owner hereby retains Manager commencing on _____, 20__ (the “Commencement Date”) to market, manage and lease the Apartment Complex.

3. Term. This Agreement shall commence on the Commencement Date and, subject to Section 11 of this Agreement, shall expire two (2) years following the Effective Date (the “Original Term”), but, unless terminated in accordance with the provisions of such Section II, may be extended for up to an additional two (2) year term at the sole option of Owner. The terms and conditions during any renewal term shall be the same as the terms and conditions during the original term.

4. Management Fees. In consideration of the performance by Manager of its duties and obligations hereunder, Owner shall pay to Manager a management fee (“Management Fee”) equal to of monthly Gross Operating Revenues, which fee is calculated with respect to the preceding calendar month and payable on the tenth day of each calendar month, beginning with the month after the month during

which the Commencement Date occurs. Manager shall submit to Owner an invoice detailing the calculation of the Management Fee each month no later than the fifth day of the next succeeding month. If the first or last month of this Agreement is not a full calendar month, the Management Fee for such month shall be calculated based on Gross Operating Revenues for the entire month, and the amount payable for such month shall then be prorated based on the number of days during such month that this Agreement was in effect.

All rebates, discounts, or commissions collected by the Manager (except a commission pursuant to the terms of this Agreement) or credited to the Manager's use, which relate to the purchasing of supplies or the rendering of services to or for the Apartment Complex, shall be fully disclosed to Owner and that part of any rebate, discount or commission that is allocable to the purchasing of supplies or the rendering of services to or for the Apartment Complex shall be credited to the Owner's account.

5. Authority and Responsibilities of Manager.

- (a) Independent Contractor. In the performance of its duties hereunder, the Manager shall be and act as an independent contractor, with the sole duty to supervise, manage, operate, control, and direct performance of the details of its duties incident to the specified duties and obligations hereunder, subject to the rights of the Owner, as described herein. Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, employment relationship, or otherwise to create any liability for one party with respect to indebtedness, liabilities, or obligations of the other party except as otherwise may be expressly set forth herein.
- (b) Standard of Care. Manager shall perform its duties and obligations in a professional, competent, businesslike, and efficient manner as would a first-class property manager of apartment projects similar to the Apartment Complex.
- (c) Depository Accounts. All rents and other revenue from the Apartment Complex shall be deposited by Manager into one or more deposit accounts designated by Owner and insured by the Federal Deposit Insurance Corporation (each a "Depository Account") within one business day of receipt. The Depository Account shall be the sole and exclusive property of Owner, and Manager shall retain no interest therein. Manager shall not commingle the Depository Account with any other funds. Checks may be drawn upon such Depository Account only by persons authorized by Owner in writing to sign checks, at least one of whom shall be a designee of Manager and one a designee of Owner. No loans shall be made from the Depository Account. Manager shall not use a "standardized clearing account" for any Depository Account. The Depository Account shall be established in the name of the Manager to be held in trust for the Owner.
- (c) Security Deposits. Manager shall deposit and maintain all security deposits in a separate account designated by Owner and insured by the Federal Deposit Insurance Corporation (the "Security Account"). Manager shall fully fund all security deposits into the Security Account within one business day of receipt, notwithstanding whether local law requires full funding. The Security Account shall be a segregated

account distinct from the Depository Account and any other accounts relating to the Apartment Complex or the Manager. The Security Account shall be the sole and exclusive property of Owner, and Manager shall retain no interest therein. Manager shall not commingle the Security Account with any other funds. Checks may be drawn upon the Security Account only by persons authorized by Owner in writing to sign checks, at least one of whom shall be a designee of Manager and one a designee of Owner. No loans shall be made from the Security Account. Manager shall not use a “standardized clearing account” for the Security Account. The Security Account shall be established in the name of the Manager to be held in trust for the Owner.

- (e) Budgets. Manager shall prepare and present to Owner in a format approved by Owner, prior to the Commencement Date and annually thereafter, by November 15, annual operating and capital budgets for the following calendar year for the Apartment Complex; which once approved by Owner and Manager shall be the Budget (“Budget”). Except in cases of emergency, without the written approval of Owner, Manager shall not incur any expenses that are not included within the Budget for the current year. Once a Budget is approved by Owner, any variations or changes must be approved by Owner in writing.
- (f) Leasing, Collection of Rents, Etc.
 - (i) Manager shall use its best efforts, consistent with the standard of care set forth herein, to lease units in the Apartment Complex in accordance with the Regulatory Agreement requirements and the requirements of the Grants, obtain and retain residents and maximize Gross Operating Revenues.
 - (ii) Manager shall market the Apartment Complex making every reasonable effort to obtain suitable Residents when vacancies occur. This shall be done as expeditiously as possible to ensure units do not remain vacant for more than 25 days and to minimize loss of revenue. Occupancy of the Apartment Complex shall be limited to income-qualified seniors. The criteria governing eligibility of Residents for admission to any assisted units and the conditions of continued occupancy shall be in accordance with the Regulatory Agreement.
 - (iii) Manager shall rent apartments in the Apartment Complex at rates approved by Owner.
 - (iv) Manager shall sign apartment leases in its capacity as property manager hereunder. Manager shall only sign leases in the form of lease approved by Owner. Manager shall not enter into any lease with a term greater than 12 months or less than 6 months.
 - (v) Manager shall collect rents, security, deposits, and other charges payable by tenants in accordance with the tenant leases, and shall collect Gross Operating

Revenues due to the Owner with respect to the Apartment Complex from all other sources, and shall deposit all such monies received immediately upon receipt as provided in Section 6(c) and Section 6(d) of this Agreement. If Manager receives Excluded Revenues, Manager shall immediately deposit same in an account designated by Owner.

- (vi) Manager shall pay, in accordance with the Budget, all debt service, monthly bills, and insurance premiums on the Apartment Complex from the Depository Account. Manager shall also transfer funds from the Depository Account into the account designated by Owner as the Reserve For Replacements account. Manager is not authorized to pay for items outside the approved Budget without Owner's written approval. Manager may request advances from Owner from the Operating Reserve, which shall be paid by Owner at its sole discretion.
- (vii) Manager shall, at Owner's expense, terminate leases, evict tenants, institute and settle suits for delinquent payments as Manager deems advisable, subject to other provisions of this Agreement. In connection therewith, Manager may, at Owner's expense from available cash flow, as limited by the provisions of Section 6(o) of this Agreement, consult and retain legal counsel.
- (viii) Manager shall, on the twentieth (20th) day of each month, pay Owner an amount equal to Gross Operating Revenues, less amounts paid for approved operating expenses, pursuant to the Budget, of the Apartment Complex in accordance with this Agreement.
- (ix) Manager acknowledges the Owner's objective of complying with the Grants and acknowledges that tenant qualifications and rents on some of the units in the Apartment Complex are restricted.
- (x) Manager agrees to operate the Apartment Complex in a manner that meets the Regulatory Requirements (including the Grants), including but not limited to the following:
 - (A) causing the apartment units in the Apartment Complex to be leased to suitable tenants who comply with all Regulatory Requirements;
 - (B) obtaining from all tenants in the Apartment Complex the right to receive annual reports from such tenants concerning their incomes and family sizes and any other information required by the Regulatory Requirements;
 - (C) execution of a lease for any rental unit in respect of which Grants funding has been allocated to the Owner only upon first obtaining certification from the tenant, and such other information as may be necessary for the Manager to determine that the tenant satisfies the income criteria for low-income housing;

- (D) preparation for Owner's signature and filing in a proper manner, any reports and/or certifications required by any Project Lender, HUD, and/or Harris County Community Services Department;
 - (E) causing the Apartment Complex to be operated in a manner that complies with all other statutes, regulations, and agreements which must be complied with for Owner to comply with the Grants;
-
- (xi) Manager acknowledges receipt of the Project's Promissory Note and HOME grant agreements between HCHA and Harris County Community Services Department and to comply with the requirements thereof with respect to reporting, leasing, funding, and payments. Manager agrees to comply with the terms and conditions set forth in the most current HUD Compliance Manual, as same shall be revised or amended from time to time; and
 - (xii) The responsibilities and services included in this Section 6 as part of Manager's duties shall not entitle Manager to any additional compensation over and above the Management Fee. Manager shall not be entitled to any compensation based upon any Apartment Complex financing or sale of the Apartment Complex unless Manager is engaged pursuant to a separate agreement approved in writing by Owner to provide brokerage services in connection therewith, in which case Manager's right to compensation for Apartment Complex financing or sale shall be based upon such separate agreement.
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- (g) Repair, Maintenance, and Service.
 - (i) Manager shall maintain the Apartment Complex in good repair and condition, consistent with the standard of care set forth herein. Manager shall make or cause to be made all necessary repairs and alterations, purchase required supplies and materials in accordance with the Budget and pay all bills, accounts, and indebtedness's relative thereto. Manager agrees to secure the prior written approval of Owner on all expenditures in excess of Five Thousand Dollars (\$5,000.00) for any one item, except monthly or recurring operating charges and/or emergency repairs in excess of the maximum, if, in the opinion of Manager, such repairs are necessary to protect and preserve the Apartment Complex from damage or to maintain the services to the lessees as called for in their leases. If Owner doesn't reject the expenditure approval within 5 business days of the request, such request shall be deemed as approved.
 - (ii) Subject to the other terms and conditions of this Agreement, Manager, in its capacity hereunder, shall execute any necessary contracts for electricity, gas, telephone, television, vermin or pest extermination, and any other services

necessary to maintain the Apartment Complex consistent with the Budget. Manager shall, in Owner's name and at Owner's expense, out of available cash flow, hire and discharge independent contractors for the repair and maintenance of the Apartment Complex. Other than tenant leases, which Manager is authorized to execute hereunder, Manager shall not, without the prior written consent of the Owner, enter into any contract in the name of Owner which may not be terminated without payment of penalty or premium with thirty (30) days notice. Manager shall act at arm's length with all contractors and shall employ no Affiliates of Manager without the prior written consent of the Owner.

- (h) Loans, Insurance. To the extent made possible from revenues generated by the Apartment Complex or other funds of the Owner, Manager is hereby instructed and authorized to service all loans and mortgages on the Apartment Complex, pay all applicable real estate and personal property taxes (if any), licenses, and fees; and, to pay from Owner's funds such insurance premiums as requested by Owner under Section 6(k) hereof.
- (i) Manager's Employees. Manager shall have in its employ at all times a sufficient number of employees to enable it to professionally manage the Apartment Complex in accordance with the terms of this Agreement. Manager shall prepare, execute and file all forms, reports, and returns required by applicable laws. Manager shall hire, supervise, direct, and discharge all employees and/or independent contractors required for the operation, leasing, management, and maintenance of the Apartment Complex, except that Owner, shall have the right to approve or request removal of, the on-site Manager. The compensation to be paid employees and independent contractors shall be competitive in the employment market. All employees shall be included in Manager's Workers Compensation Policy. Reports of withholding, social security, and all other payroll taxes shall be made by Manager under Manager's account number. All reasonable payroll costs for on-site employees shall be at Owner's expense pursuant to the Budget. However, Owner shall not pay or reimburse Manager for all or any part of Manager's general, administrative and overhead expenses, including salaries and payroll expenses of personnel of Manager not working on-site. All matters pertaining to the employment and supervision of such employees shall be the sole responsibility of Manager, which in all respects shall be the employer of such employees, and Owner shall have no liability with respect to such matters.
- (j) Insurance. Except as otherwise agreed in writing between the parties hereto, Manager shall maintain adequate workman's compensation insurance policies. Any and all other insurance maintained for the Project (such as fire, earthquake, burglary, rent, or extended coverage insurance) shall be obtained by the Manager at the Project's cost; Manager shall cause the Project to be fully insured with paid-up policies in accordance with the minimum industry standards in Harris County, Texas and the standards required by the Partnership Agreement and all loan documents

executed in connection with any Mortgage. Manager shall furnish Owner with certificates or duplicates of said policies and shall name Manager as an additional insured on all liability policies. Manager shall maintain an umbrella liability policy on operations of _____ so long as such is reasonably available. Nothing in this Agreement shall be construed to limit Manager's rights and recourse under the terms of any insurance policy procured pursuant to this Agreement. Except in case of fraud, willful misconduct or gross negligence, the doing of any act or the failure to do any act by Manager, the effect of which may cause or result in loss or damage to Owner, if done pursuant to the terms hereof or pursuant to Owner's instructions, shall not subject Manager to any liability to Owner and Owner hereby waives its right of recovery against Manager if any exists.

- (k) Maintenance of Records. Manager agrees to keep and maintain at all times all necessary books and records relating to the leasing, management, and operation of the Apartment Complex, including all books and records relating to the reporting requirements under the Grants, and to prepare and render to Owner monthly itemized accounts of receipts and disbursements incurred in connection with its leasing operation and management by the twentieth (20th) day of the following month. Unless Owner, in writing, expressly directs, Manager shall not be required to file any reports other than such monthly statements and the other reports required hereunder. An annual audit report shall be prepared at Owner's expense, out of Gross Operating Revenues, showing a balance sheet and an income and expense statement, all in reasonable detail and certified by an independent Certified Public Accountant. All books, correspondence, and data pertaining to the leasing, management, and operation of the Apartment Complex shall, at all times, be safely preserved. Such books, correspondence, and data shall, upon the termination of this Agreement, be delivered to Owner in their entirety and at any other time, upon request of Owner, be delivered to Owner within five (10) business days of such request. Manager shall maintain files of all original documents relating to reporting requirements under the Bank Loan, Grants, leases, vendors, and all other business of the Apartment Complex in an orderly fashion at the Apartment Complex, which files shall be the property of Owner and shall at all times be open to Owner's inspection and available for copying at Owner's request. Manager shall familiarize itself with all the reporting requirements under the Grants and assist Owner with such reporting requirements. All books of account and business records pertaining to the management and operation of the Apartment complex shall be open to inspection by Owner, HCHA, Lender, Harris County Community Services Department, and HUD, or their representatives, at all reasonable times for the purposes of audit, duplication or any other proper purpose. At the time that this Agreement is terminated, for whatever reason, Manager shall make, at Owner's sole cost and expense, a final accounting of all transactions theretofore completed. Any sums owing to the Manager, whether for reimbursement of expenses or on account of its fee hereunder, shall be paid to the Manager. Upon termination, all books and records, and all original leases and contracts relating to the Apartment Complex, which are in the Manager's possession, shall be immediately delivered to the Owner.

- (l) Operating Expenses. Manager shall use reasonable efforts to minimize operating expenses by obtaining competitive pricing on all services and shall obtain at least three quotes on expenditures of Three Thousand Dollars (\$3,000.00) to Fifty Thousand Dollars (\$50,000.00) and obtain public bids on expenditures exceeding Fifty Thousand and One Dollars (\$50,001.00) (a “major expenditure”). Manager shall use reasonable efforts to comply with the limitations on expenditures set forth in the Budget. Manager shall obtain Owner’s prior written consent before incurring on behalf of Owner any single expenditure in excess of Three Thousand Dollars (\$3,000.00) excluding utility bills, budgeted items, and other normal and recurring expenses included in the Budget, except in an emergency, in which case Manager may incur such expenses as are reasonably necessary to protect life and property. Manager shall notify Owner of any such emergency expenses as soon as practicable after they are incurred but in no event later than three (3) days thereafter. Manager shall not request payment of any invoices, whether to itself or a third party, marked-up above cost nor shall Manager request payment of any compliance fees, marketing fees, mark-up on employees’ salary or travel or fees for personnel off-site. Under no circumstances, except in the case of emergency(s), shall the Manager incur any expenditure in excess of available cash flow after repayment of debt service without prior written consent of Owner.
- (m) Legal Proceedings and Compliance with Applicable Laws.
- (i) Manager shall notify Owner and each insurance carrier whose policy may cover a related claim, in writing of the receipt of, or attempted service on Manager of, any demand, notice, or legal process, or the occurrence of any casualty loss, injury or damage on or about the Apartment Complex within one business day of such occurrence.
 - (ii) Manager acknowledges that it is not authorized to accept service of process or any other notice on behalf of Owner. Manager shall not make representations or provide information to any Person that is inconsistent with the foregoing. All legal notices delivered to the property shall immediately be delivered to the Owner.
 - (iii) Manager shall immediately provide copies to Owner of all notices and other written communications from Owner’s insurance carriers with respect to accepting coverage, appointing counsel or any other matter related to a claim against Owner.
 - (iv) Manager shall immediately provide notice to Owner of any oral or written communication relating to the Apartment Complex that Manager receives from a governmental or regulatory agency. Manager shall promptly provide Owner with a complete copy of any such written materials.
 - (v) Manager shall fully comply and cause its employees to fully comply with all applicable laws in connection with this Agreement and the performance of its

obligations hereunder, including all federal, state, and local laws, ordinances, and regulations relative to the leasing, use, operation, repair and maintenance of the Apartment Complex and the operations of Manager, including without limitation, laws prohibiting discrimination in housing, employment laws (including those related to unfair labor, practices), laws regarding tenant security deposits and laws regarding the storage, release, and disposal of hazardous materials, and toxic substances, including without limitation, asbestos, petroleum, and petroleum products.

- (vi) Manager agrees that it shall not and shall not permit its employees to cause any hazardous materials or toxic substances to be stored, released, or disposed of on or in the Apartment Complex except as may be incidental to the operation of the Apartment Complex (e.g., cleaning supplies, fertilizers, paint, pool supplies, and chemicals) and then only in complete compliance with all applicable laws and regulations and in conformity with good property management. If (A) there is a violation of applicable laws regarding the storage, release, and disposal of such hazardous materials or toxic substances, or (B) Manager reasonably believes that the storage, release, or disposal of any hazardous material, petroleum product, or toxic substances, could cause liability to the Owner, including any releases caused by tenants, third parties or employees, on the Apartment Complex, Manager shall notify Owner immediately.

- (n) Subject to the Regulatory Requirements and operation as seniors housing, the Manager agrees that the Apartment Complex shall be offered to all prospective tenants on a nondiscriminatory basis without regard to race, color, religion, sex, family status, handicap, or national origin in accordance with applicable law.

7. **Representations and Duties of Manager.** The Manager represents, warrants, covenants, and agrees that:

- (a) Manager has the authority to enter into and to perform this Agreement, to execute and deliver all documents relating to this Agreement, and to incur the obligations provided for in this Agreement.
- (b) When executed, this Agreement, together with all documents executed pursuant hereto, shall constitute the valid and legally binding obligations of Manager in accordance with their terms.
- (c) Manager has all necessary licenses, consents, and permissions to enter into this Agreement, manage the Apartment Complex, and otherwise comply with and perform Manager's obligations and duties hereunder. Manager shall comply with any conditions or requirements set out in any such licenses, consents, and permissions, and shall at all times operate and manage the Apartment Complex in accordance with such conditions and requirements.

- (d) During the term of this Agreement, Manager will be a valid corporation or LLC, duly organized under the laws of the State of its formation, and shall have full power and authority to manage the Apartment Complex, operate in the State of Texas, and otherwise comply with and perform Manager's obligations and duties under this Agreement.
- (e) The Apartment Complex shall be managed in a manner to satisfy all restrictions, including tenant income and rent restrictions, applicable to the Grants.
- (f) Manager shall comply with any requirements under applicable environmental laws, regulations, and orders which affect the Apartment Complex.
- (g) Manager shall cause the Apartment Complex to be operated in a manner so that all requirements shall be met which are necessary to obtain or achieve (i) compliance with the Project Loan and Grants, including all applicable requirements set forth in the Regulatory Agreement (ii) issuance of all necessary permanent, unconditional certificates of occupancy, including all governmental approvals required to permit occupancy of all of the apartment units in the Apartment Complex.
- (h) Manager shall familiarize itself with the Grants and the Project Loan documents and comply with the requirements therein, including the requirements for the Reserve For Replacements and Operating Reserve. In connection therewith, the Manager shall utilize the Reserve for Replacements and Operating Reserve only subject to the approval of the Owner and Project Lender, in their sole discretion. Subject to the Project Loan requirements, Manager may use the Lease-Up Reserve to fund shortfalls in operating revenues but shall give Owner notice of any use thereof.
- (i) Manager shall not incur indebtedness on behalf of Owner without Owner's written consent.
- (j) Manager shall provide Owner the following within 30 days after the end of each month: (i) leasing report, (ii) certified rent roll, (iii) balance sheet, statement of income and expense and cash flow, (iv) copies of all Harris County Community Services Department reports (v) inventory of the Owner's equipment and personal property located at the Apartment Complex (vi) schedule of tenant security deposits being held by the Manager on behalf of the Owner and (vii) reports of existing vacancies and occupancy. On a semi-annual basis, Manager shall provide Owner tenant data as specified by Owner. In addition, Manager shall prepare and submit to the Owner at least sixty (60) days prior to the commencement of each fiscal year of the Owner, a leasing schedule showing proposed lease rates and concessions proposed to be granted at the Apartment Complex, including the formula for granting such concessions, and the projected net annual effect of leasing activity at the Apartment Complex for the upcoming fiscal year.
- (k) Manager shall prepare and submit to the Owner within thirty (30) days after each calendar month a statement of the operations of the Apartment Complex and shall

make supporting data available upon request of the Owner. In addition, the Manager shall prepare and submit to the Owner within thirty (30) days after the end of each month a monthly operating statement, a balance sheet, a statement of income, a statement of cash receipts and disbursements for the month, then ended, a comparison of expenditures projected in an approved budget for the month then ended, and the actual expenditures for such month, and any other reports required by HUD, HCHA, Owner's lenders or Harris County. The Manager shall also prepare and submit to the Owner within ninety (90) days after the end of each fiscal year of the Owner an annual operating statement, a balance sheet (as of the end of the fiscal year), a statement of cash receipts and disbursements for the fiscal year then ended, and a statement of changes in financial position and a statement of sources and application of funds during such fiscal year, such statements to be prepared in accordance with generally accepted accounting principles and audited and reported upon by an independent certified public accountant approved by the Owner. Manager shall also prepare and submit to the Owner within a reasonable time after the Owner shall have requested such other reports and financial statements as the Owner shall from time to time reasonably request.

- (l) Manager shall respond to inquiries from Owner, HCHA, Project Lender, the Harris County Community Services Department, and HUD on a timely basis. Representatives of Owner, HCHA, Project Lender, the Harris County Community Services Department, and HUD shall be entitled to visit and inspect the Apartment Complex and the books and records of Manager with respect to revenues, expenses, tenants, and operations of the Apartment Complex.
 - (m) Manager shall not acquire any real property or interest therein on behalf of the Owner.
 - (n) Manager shall not sell or otherwise transfer or mortgage the Apartment Complex or any part thereof, except the sale of worn-out or obsolete personal property or other personal property no longer useful in the operation of the Apartment Complex.
 - (o) Manager and Owner shall meet periodically to discuss and review the management activities to be conducted by the Manager hereunder.
8. Representations of Owner. The Owner represents and warrants that:
- (a) the Owner has the authority to enter into and to perform this Agreement, to execute and deliver all documents relating to this Agreement, and to incur the obligations provided for in this Agreement; and
 - (b) when executed, this Agreement, together with all documents executed pursuant hereto, shall constitute the valid and legally binding obligations of the Owner in accordance with their terms.

9. Indemnification.

Indemnification of Owner. Manager hereby indemnifies and holds harmless Owner, Owner's affiliates, and each of their respective officers, managers, directors, partners, shareholders, employees, attorneys, and agents from and against any and all loss, cost, damage, liability, and expense, including reasonable attorneys' fees and expenses, incurred as a result of Manager's or any of Manager's affiliates', or any of Manager's or any of Manager's affiliates, shareholder's, partner's, employee's, subcontractor's or agent's gross negligence, willful misconduct, fraud, actions outside the scope of the authority granted hereunder, or any other breach of this Agreement. So long as Manager has maintained the required insurance coverages described herein, Manager's indemnity shall be limited to Manager's insurance coverages, except in the case of fraud, gross negligence, willful misconduct, or breach of this Agreement.

(b) Indemnification of Manager by Owner. Owner shall and hereby does indemnify and hold Manager harmless against any and all claims, actions, demands, damages, losses, costs, and expenses (including reasonable attorneys' fees) as a result of any claim or legal proceeding related to the performance or non-performance of any act concerning the activities of Manager hereunder as long as Manager has not acted fraudulently, or in breach of this Agreement causing material harm to Owner, or with gross negligence or with willful misconduct. Notwithstanding the foregoing, Owner's liability for indemnification arising from Manager's breach of this Agreement shall be limited to the proceeds received from the insurance policies carried in connection with this Project. Manager shall be held harmless for the failure to pay any liabilities of the Project if necessary funds for such are not made available to Manager by Owner upon request therefor from Manager. Further, Manager shall have no liability to Owner with regard to Manager's activities hereunder except liability directly caused by Manager's violation of the Agreement, any Applicable Law, willful misconduct, fraud or gross negligence.

(c) Survival. The provisions of this Section 9 shall survive the termination of this Agreement.

10. Defaults.

(a) Manager's Event of Default. Manager shall be deemed to be in default hereunder upon the happening of any of the following ("Manager's Event of Default"):

- (i) The failure by Manager to keep, observe or perform any covenant, agreement, term, or provision of this Agreement and the continuation of such failure, in full or in part, for (30) days after written notice thereof by Owner to Manager;
- (ii) The request by Manager for payment of any invoice, whether to itself or a third party, marked-up above cost as prohibited herein;
- (iii) The making of a general assignment by Manager for benefit of its creditors, the filing by Manager with any bankruptcy court of competent jurisdiction of

a voluntary petition under Title 11 of U.S. Code, as amended from time to time, the filing by Manager of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency, or other relief for debtors, Manager is the subject of any order for relief issued under such Title II of the U.S. Code, as amended from time to time, or the dissolution or liquidation of Manager; or

- (iv) The misapplication, misappropriation, or commingling of funds held by Manager for the benefit of Owner, including the payment of fees to Affiliates of the Manager or the loaning of funds to Affiliates.
- (b) Remedies of Owner. Upon a Manager's Event of Default, Owner shall be entitled to (i) terminate in writing this Agreement effective as of the date designated by Owner (which may be the date upon which notice is given), and/or (ii) pursue any remedy at law or in equity, including without limitation, an action for compensatory damages or specific performance. All of Owner's rights and remedies shall be cumulative.
- (c) Owner's Event of Default. Owner shall be deemed to be in default hereunder (an "Owner's Event of Default") if Owner shall fail to keep, observe or perform any covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by Owner, and such default shall continue for a period of thirty (30) days after written notice thereof by Manager to Owner, or if such default cannot be cured within such thirty (30) day period, then such additional period as shall be reasonable, provided Owner commences to cure such default within such thirty (30) day period and proceeds diligently to prosecute such cure to completion.
- (d) Remedies of Manager. Upon an Owner's Event of Default, Manager shall be entitled to (i) terminate in writing this Agreement effective as of the date designated by Owner, which is at least 10 days after receipt of such notice of termination by Owner provided the Event of Default has not then been cured, or such cure commenced, and/or (ii) pursue an action for actual damages incurred by Manager (which action must take into consideration Owner's termination rights under Section 11 of this Agreement). Manager expressly agrees that, as set forth in the Paragraph, termination and monetary damages are its sole rights and remedies with respect to an Owner's Event of Default. Manager expressly waives and releases the right to seek equitable relief, including specific performance or injunctive relief, and to sue for any consequential or punitive damages.

11. Termination Rights.

- (a) Expiration of Term. If not sooner terminated, this Agreement shall terminate on the expiration of its term set forth in Section 3 of this Agreement.
- (b) Termination By Owner. Upon Manager's Event of Default. Upon a Manager's Event

of Default, Owner may terminate this Agreement as specified in Section 10 (b) of this Agreement.

- (c) Termination By Manager. Upon Owner's Event of Default. Upon an Owner's Event of Default, Manager may terminate this Agreement as specified in Section 10 (d) of this Agreement.
- (d) Termination By Owner Without Cause. Even in the absence of any other express right to terminate this Agreement, Owner may terminate this Agreement upon written notice at any time upon thirty (30) days prior notice from the Owner.
- (e) Termination Upon Sale of the Apartment Complex. If the Apartment Complex is sold, conveyed, or transferred during the term hereof, this Agreement shall terminate at Owner's option.
- (f) Effect of Termination Upon Payment of Fees. Upon the termination of this Agreement for any reason, Manager shall be entitled to its earned but unpaid fees for the period prior to the termination. Manager shall not be entitled to any fees relating to the period after the date of termination of this Agreement. Owner may offset any damages against earned but unpaid fees.
- (g) Delivery of Apartment Complex Upon Termination. Immediately after termination of this Agreement for any reason, Manager shall deliver to or as directed by Owner all funds, checks, keys, lease files, computer files, computers, books and records, and other Confidential Information (as defined below) to Owner. Immediately after termination, Manager shall leave the Apartment Complex and cause its employees to leave the Apartment Complex without causing any damage thereto. Under no circumstances shall any default by Owner give rise to any lien on the Apartment Complex or give rise to a right of Manager to stay on the Apartment Complex after the date of termination. Termination of this Agreement under any of the provisions of this Agreement shall not release either party as against the other from liability for failure to perform any of its duties or obligations as expressed herein and required to be performed prior to such termination. Manager agrees to cooperate with Owner in the obligations set forth in this Section 2 (g).

12. Confidentiality.

- (a) Preservation of Confidentiality. In connection with the performance of obligations hereunder, Manager acknowledges that it will have access to Confidential Information. Manager shall treat such Confidential Information as proprietary to Owner and private, and shall preserve the confidentiality thereof and not disclose, or cause or permit its employees, agents or contractors to disclose, such Confidential Information. Notwithstanding the foregoing, Manager shall have the right to disclose Confidential Information if and only to the extent it is required by court order to disclose any Confidential Information. If Manager or anyone to whom Manager transmits Confidential Information pursuant to this Agreement becomes legally

compelled to disclose any of the Confidential Information, Manager shall provide Owner with prompt notice thereof so that Owner may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained by Owner or Owner waives compliance with the provisions of this Agreement, Manager shall furnish or cause to be furnished only that portion of the Confidential Information which Manager is required by contract to furnish, and will exercise commercially reasonable efforts to obtain reliable assurances that confidential treatment is accorded the Confidential Information so furnished.

- (b) **Property Right in Confidential Information.** All Confidential Information shall remain the property of Owner, and Manager shall have no ownership interest therein.

13. **Survival of Agreement.** All indemnity obligations set forth herein, all obligations to pay earned and accrued fees and expenses, all confidentiality obligations, and all obligations to perform and duties accrued prior to the date of termination shall survive the termination of this Agreement.

14. **Enforcement of Agreement.** This Agreement, its interpretation, performance and enforcement, and the rights and remedies of the parties hereto, shall be governed and construed by and in accordance with the laws of the State of Texas. In any dispute pertaining to, or litigation or arbitration arising from the enforcement or interpretation of the provisions of this Agreement, the prevailing party shall be entitled to recover its attorneys fees and costs, including those incurred in connection with all appellate levels, bankruptcy, mediation or otherwise to maintain such action, from the losing party. Venue shall rest solely in the State and Federal Courts of Harris County, Texas.

15. **Assignment.** Manager shall not directly or indirectly (except with the consent of Owner) sell, assign or otherwise transfer by operation of law or otherwise all or any part of the legal or beneficial interests in the Manager or all or any part of its rights or obligations under this Agreement. Subject to Section 11(e) of this Agreement, Owner may assign this Agreement to a successor owner of the Apartment Complex. A change in the members of Owner shall not constitute an assignment. If Owner assigns this Agreement to a successor owner of the Apartment Complex, such assignment shall constitute a novation, releasing Owner of all rights and obligations hereunder.

16. **Notices.** All notices, demands, requests, or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by depositing same with a nationally recognized overnight delivery service such as Federal Express for next business day delivery ("Overnight Delivery") or by depositing same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or by sending by facsimile transmission, addressed as follows:

If to Owner: HCHA Sierra Meadows
c/o Harris County Housing Authority
1933 Hussion St., Bldg. #3
Houston, Texas 77054

Attention: Executive Director

If to Manager: _____

Attention: _____

All notices shall be effective upon such personal delivery, upon delivery by Overnight Delivery, five (5) business days after deposit in the United States mail, or on the next business day after confirmed facsimile transmission. By giving to the other parties hereto at least 15 days' written notice in accordance with the provisions hereof, a party may change its address for notice purposes.

17. Miscellaneous.

- (a) On-Site Management Facilities. Manager shall staff a management office in the Apartment Complex, and Owner shall provide space for such office at no rental charge to Manager.
- (b) Counterparts. This Agreement may be executed concurrently in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- (c) Third-Party Beneficiary. There are no third-party beneficiaries under the terms of this Agreement.
- (d) Captions. The captions of this Agreement are inserted only for the purpose of convenient reference and do not define, limit or prescribe the scope or intent of this Agreement or any part hereof.
- (e) Amendments. This Agreement cannot be amended or modified except by another agreement in writing, signed by the parties to this Agreement.
- (f) Entire Agreement. This Agreement embodies the entire understanding of the parties, and there are no further agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof
- (g) Time is of Essence. Time is the essence hereof.
- (h) Construction of Document. This Agreement has been negotiated at arms' length and has been reviewed by counsel for the parties. No provision of this Agreement shall be construed against any party based upon the identity of the drafter.
- (i) Severability. If any provision of this Agreement or the application thereof is held to be invalid or unenforceable, such defect shall not affect other provisions or applications of this Agreement that can be given effect without the invalid or unenforceable provisions or applications, and to this end, the provisions and

applications of this Agreement shall be severable.

- (j) No Continuing Waiver. No waiver by a party hereto of any breach of this Agreement shall be effective unless in writing executed by such party. No waiver shall operate or be construed to be a waiver of any subsequent breach.

IN WITNESS WHEREOF, the parties have executed this Management Agreement as of the date first set forth above.

OWNER:

HCHA Sierra Meadows

By: _____
Manager

MANAGER:

By: _____
_____, _____

Exhibit A

Rents Restrictions

1 bedroom	3 units	30% AMI or below
1 bedroom	20 units	50% AMI or below
1 bedroom	17 units	60% AMI or below
2 bedroom	5 units	Unrestricted
2 bedroom	2 units	30% AMI or below
2 bedroom	19 units	50% AMI or below
2 bedroom	24 units	60% AMI or below

Note: distribution of rent restrictions subject to change

Exhibit B

Performance Standards

Tenant Account Receivables ("TAR"). Receivables to be included in the TAR performance measure means the monthly amount (excluding pending HAP payments) that a resident is obligated to pay Owner pursuant to the terms of a lease, other than non-housing charges. Owner's monthly standard for TARs is a maximum of four percent (4%). The TAR goal will be measured prior to any tenant monetary adjustment and/or quarterly write-offs.

Vacancy. A vacancy is defined as an occupied unit which becomes unoccupied during any part of the month and remains unoccupied at the end of the month. Owner's quarterly vacancy rate standard is a maximum of three percent (3%).

Vacancy Turnaround. Owner's standard for vacancy turnaround time is 25 days. This includes make-ready and lease-up time. The monthly report must include the following for each vacated unit:

- (i) The date the unit was vacated
- (ii) The name of the former resident who vacated
- (iii) The unit number of the vacated unit
- (iv) The size of the vacated unit
- (v) Reason tenant vacated unit
- (vi) The date maintenance began to "make ready" the unit
- (vii) The date maintenance completed all "make ready" repairs
- (viii) The date the unit was re-leased

Work Orders

Emergency. Emergency work orders are those that address an immediate threat to life, health, or safety to property or the resident or related to fire safety. Owner's standard for completion of an emergency work order is for all emergency work orders to be completed or abated within 24 hours.

Non-Emergency. Non-emergency work orders are those that address conditions that do not pose an immediate threat to life, health, or safety to property or the resident or are not related to fire safety. Owner's standard for the completion of non-emergency work orders is within 4 days.

Exhibit C

Inspection Standards

Inspections. Owner's standard for inspections is for all units to be inspected at least twice per year and for all bi-annual inspections (utilizing Housing Quality Standards (HQS) of HUD) to be conducted on or before June 30th and December 31st of each year. Accordingly, Manager must conduct a sufficient number of inspections each month beginning January 1st in order to complete round one inspection of all units before June 30th, and between July 1st and December 31st must conduct a sufficient number of inspections each month in order to complete round two inspection of all units before December 31st. Further, all units must be inspected within 6 months of the previous inspection. All HQS inspections include the site, building exteriors, common areas, units, and systems. Manager shall submit to Owner no later than January 31st and July 1st a proposed bi-annual inspection schedule designed to meet the foregoing criteria.

The monthly report should include inspection work orders that track the following information:

- The time and date that the unit, building, and system (including common areas and non-dwelling space) were inspected
- Who conducted the inspection
- Whether the unit, building, and/or system inspected passed or failed
- Reinspection for all failed inspections
- Whether a work order was generated with the work order number and date
- If a work order was generated, the date the work order was completed

Housekeeping Inspections. Housekeeping inspections will be conducted initially within sixty (60) days after the move-in of each resident. Thereafter, Housekeeping inspections will be scheduled annually at lease renewal or recertification.

Attachment C

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;
or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

- (2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Attachment D

M/WBE PARTICIPATION

M/WBE PARTICIPATION: The consultant agrees to make its best efforts to subcontract with minority business enterprises and/or women business enterprises (herein called M/WBE) certified as such or recognized by HCHA as a certified M/WBE. Consultant shall make its best efforts to subcontract a sufficient dollar amount with M/WBEs to ensure that a minimum of 30 percent of the final contract dollars are expended on one or more M/WBEs. All adjustments that cause the contract price to increase will also increase the total amount that Consultant must make its best efforts to expend on M/WBEs.

USING BEST EFFORTS TO FULFILL M/WBE REQUIREMENT: In the event HCHA has a reasonable belief that Consultant will not use his/her/its best efforts to meet the 30 percent M/WBE participation goal, HCHA reserves the right to pull work from the contract. Best efforts may be established by showing that Consultant has contacted and solicited bids/quotes from subcontractors and worked with the HCHA to seek assistance in identifying M/WBEs.

FAILURE TO USE YOUR BEST EFFORTS TO COMPLY MAY CONSTITUTE BREACH OF CONTRACT AND SUBJECT THE CONTRACT TO TERMINATION.

NOTIFICATION OF M/WBE PARTICIPATION: Consultant agrees to promptly complete and return all M/WBE Confirmation of Participation and M/WBE Confirmation of Payment forms utilized by HCHA to confirm M/WBE subcontractor by submitting copies of checks made payable to the respective M/WBE subcontractor signed by the Contractor.

CONSULTANT

DATE

BIDDER'S PROPOSED E/WBE PARTICIPATION FORM

Bidder proposes to work with the following MBE/WBE participants:

[illegible]

**SAMPLE FORMAT FOR RECORDKEEPING
ESTIMATED PROJECT WORKFORCE BREAKDOWN**

M/WBE PARTICPATION

JOB CATEGORY	TOTAL ESTIMATED POSTIONS NEEDED FOR PROJECT	NO. POSITIONS OCCUPIED BY PERMANENT EMPLOYEES	NUMBER OF POSITIONS NOT OCCUPIED	NUMBER OF POSITIONS TO BE FILLED WITH M/WBE
OFFICER/SUPERVISOR				
PROFESSIONAL				
TECHNICAL				
OFFICE/CLERICAL				
SERVICE WORKERS				
TRAINEES				
CONTRACTS:				
OTHERS				

Attachment E

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

Certifications and Representations of Offerors

Non-Construction Contract

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

OMB Approval No: 2577-0180 (exp. 7/30/96)

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

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

1. Contingent Fee Representation and Agreement

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

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

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

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

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

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

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

(a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

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

(Check the block applicable to you)

- | | |
|---|---|
| <input type="checkbox"/> Black Americans | <input type="checkbox"/> Asian Pacific Americans |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans |
| <input type="checkbox"/> Native Americans | <input type="checkbox"/> Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

(1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

(1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

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

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

4. Organizational Conflicts of Interest Certification

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

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

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

Attachment F

FORM OF NON-COLLUSIVE AFFIDAVIT

STATE OF TEXAS

COUNTY OF HARRIS

_____, being first duly sworn, deposes and says that he is

(a partner or officer of the firm of, etc.)

the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person to fix the bid price or affiant or of any other bidder, or to fix any overhead, profit, or cost element of said bid price, or of that of any other bidder, or to secure any advantage against

THE HARRIS COUNTY HOUSING AUTHORITY

or of any person interested in the proposed Contract; and that all statements in said proposal or bid are true.

Signature of Bidder, if Bidder is an Individual

Signature of Bidder, if Bidder is a Partnership

Signature of Officer, if Bidder is a Corporation

Subscribed and sworn to before me this ____ day of _____, 2024

Notary Public

My Commission expires: _____

Attachment G

Certification of Payments to Influence Federal Transactions

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

OMB Approval No. 2577-0157 (Exp. 01/31/2017)

Applicant Name

Program/Activity Receiving Federal Grant Funding

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature	Date (mm/dd/yyyy)

Attachment H

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is **NO** Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

Attachment I

AFFIRMATIVE ACTION FOR DISABLED WORKERS

41 CFR 60-741.4

41 CFR 60-250.4

- (a) The Consultant 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 Consultant agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship.
- (b) The Consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (c) In the event of the Consultant's 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.
- (d) The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice in a form to be prescribed by the Chief Development Officer, provided by or through the HCHA. Such notices shall state the Consultant's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- (e) The Consultant will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract or other understanding, that the Consultant is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.
- (f) The Consultant will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontract or vendor. The Consultant will take such action with request to any subcontract or purchase orders as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
- (g) The Consultant will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam Era in regard to any position for which the employee or applicant for employment is qualified.

The Consultant shall comply with the affirmative action clause prescribe in 41 C.F.R. Section 60-250.4(a) through (m) and the regulations contained in part 60-250.

Attachment J

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$150,000

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other 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.
- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

(ii) Any reasonable payment to a person, other than an officer or employee of a

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

Attachment K

DECLARATION - (REQUIRED SUBMITTAL)

NAME

TITLE

CITY, STATE

SUBMITTAL DATE

The undersigned, as Offeror, declares that the only persons interested in this Response are named herein, that no other person has any interest in this proposal, that this proposal is made without connection or arrangement with any other person, and that this proposal is in every respect fair, in good faith, and without collusion or fraud.

The Offeror further declares that he/she has complied in every respect with all of the instructions of Offerors, and has read all addenda, if any, has satisfied himself or herself fully relative to all matters and conditions with respect to the proposal.

The Offeror agrees, if this proposal is accepted, to execute such agreement as appropriate for the purpose of establishing a formal contractual relationship between the Offeror and the HCHA for the performance of all requirements to which the proposal pertains.

The Offeror states that this proposal is based upon the proposal documents and amendments, if any.

Persons Interested in this Response:

Name	Identity of Interest
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1. _____	
----------	--

2. _____	
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3. _____	
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NAME OF FIRM/INDIVIDUAL/CORPORATION

SIGNATURE/TITLE

Attachment L

Harris County Housing Authority
Section 3 Policy

STATEMENT OF PURPOSE

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992, is to "ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed toward low-and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons." The 1992 Act sets forth:

- The types of HUD financial assistance, activities, and recipients subject to the requirements of Section 3;
- The specific individuals and business concerns who are the intended beneficiaries of the economic opportunities generated from HUD-assisted activities; and
- The order of priority in which these individuals and business concerns should be recruited and solicited for the employment and other economic opportunities generated from HUD-assisted activities.

The Harris Housing Authority's Section 3 Policy is expressed in this statement, the goal statement, and the preference tiers. Implementation procedures may be amended periodically to insure that the policy requirements are being met or to bring about efficiencies in the implementation of the program based on the practice and experience of running the program.

*Note that supply and delivery contracts are exempted from these Section 3 Policy requirements.

HARRIS COUNTY HOUSING AUTHORITY PREFERENCE TIERS

Harris County Housing Authority's preference is to ensure that as many housing authority residents as possible are employed. In an effort to further that goal, the Authority has created the following preference tier structure. Vendors are asked to comply with Section 3 by first considering Category I, hiring at the site where work is being performed. If the vendor demonstrates to the Authority's satisfaction the inability to hire at the site, the Authority's next preference is for the vendor to hire residents from other Authority properties and/or programs (Category II). If the vendor cannot meet its Section 3 goal in this manner and needs to move to other categories, the vendor must document this inability to comply with the preference.

I. Preference for Section 3 Residents in Training and Employment Opportunities

Category I Train/hire residents from the site where the work is being performed

Category II Train/hire residents of other housing developments and/or programs managed by the housing authority that is expending the covered assistance

Category III Train/hire participants in a HUD Youthbuild-like program being carried out in the metropolitan area or Non-metropolitan County in which the covered assistance is expended

Category IV Train/hire other Section 3 residents

II. Preference for Section 3 Business Concerns in Contracting Opportunities

Category I Businesses

Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3 covered assistance is expended and whose full-time permanent workforce includes 30 percent of these persons as employees (or 30% of persons who were Section 3 residents within 3 years of their first employment)

Category II Businesses

Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 covered assistance and whose full-time, permanent workforce includes 30 percent of these persons as employees (or 30% of persons who were Section 3 residents within 3 years of their first employment)

Category III Businesses

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

Category IV Businesses

Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 covered assistance

Category V Businesses

HUD Youthbuild-like programs being carried out in the metropolitan area in which the Section 3 covered assistance is expended

Category VI Businesses

Business concerns that are 51 percent or more owned by Section 3 residents and:

- i. whose permanent, full-time workforce includes no less than 30 percent Section 3 residents; or
- ii. that subcontract 20 percent or more of the total amount of the contract (including modifications) and subcontracts 25 percent of the subcontracted amount to Section 3 business concerns

Category VII Businesses

Business concerns that are 51 percent or more owned by Section 3 residents

NOTE: For contracts or purchase orders \$100,000 or less, other economic opportunities can be identified without regard for the Harris County Housing Authority's preference requirements.

SECTION 3 COMPLIANCE REQUIREMENTS

Hiring

A. Background

1. The Section 3 regulations provide that recipients, their contractors, and any subcontractors demonstrate compliance by employing Section 3 residents as 5% of the aggregate number of new hires.

2. The Section 3 Regulations, at CFR Part 135, require that in affordable housing programs, compliance efforts shall be directed to provide training and employment opportunities to Section 3 residents in accordance with the HCHA preference tier structure.
3. If a new hire is needed and a Section 3 resident is identified, that Section 3 resident will be required to submit evidence of Section 3 status to the recipient, contractor or subcontractor.
4. The Harris County Housing Authority requires a preference for hiring from the development where work is being performed. However, the Harris County Housing Authority will not require a vendor to hire from the development at the site if:
 - a. A pre-identified list of Section 3 residents from a job site contains no persons qualified to perform the work. Qualified residents from other developments shall then be considered.
 - b. The vendor's workforce is adequate to do the job and no new hiring is needed. In the event that no new hires are needed, vendors must pursue other avenues of compliance as set forth in the Harris County Housing Authority's preference tier structure.

B. Compliance

1. As part of each bid or proposal submitted, the respondent must document their workforce by position. Such information will be re-verified at the commencement of the contract.
2. Vendors will be required to submit documentation in the form of payroll forms submitted weekly that clearly identify the Section 3 hires. The vendor must comply with the Section 3 requirement throughout the life of the contract. Harris County Housing will periodically audit this information. Failure to comply with the weekly submittal of payroll shall result in the delay of payment.
3. Harris County Housing Authority residents by virtue of their income are Section 3 residents. Contractors employing Harris County Housing Authority residents must retain documentation that demonstrates any Harris County Housing Authority residents hired to meet Section 3 employment goals are:
 - a. identified on the lease of household, that is lease compliant; and
 - b. able to provide to the contractor or subcontractor the client number for the household where Harris County Housing Authority residency is claimed. This client number must appear on the certified payrolls submitted by the vendor to verify a Section 3 hire.
4. Non-Harris County Housing Authority households claiming Section 3 status must be prepared to submit evidence of income and residency in Harris County at the time of hire. As part of the Section 3 compliance process, vendors will be required to document that employees hired meet the residency and income requirements.

Contracting

A. Background

1. The Section 3 Regulations, at 24 CFR Part 135, provide that the Harris County Housing Authority, its contractors and subcontractors may demonstrate compliance by awarding contracts to Section 3 business concerns or to vendors who contract with such firms.
2. Harris County Housing Authority's contracting goals require that Section 3 firms receive at least:
 - a. 10 percent of the total dollar of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing; or
 - b. 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
 - c. 3 percent of the total dollar amount of all other Section 3 covered contracts.
3. Goals apply to the entire amount of Section 3 covered assistance awarded to a recipient in any federal fiscal year (FFY), October 1- September 30. Correspondingly, Harris County Housing Authority's goals shall apply to the total dollar amount of each contract or purchase order.

4. Recipients that award contracts to contractors that will provide training or hiring, must ensure that contractors provide training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns.
5. Efforts shall be directed to award contracts to Section 3 business concerns according to HCHA preference categories.

B. Compliance

1. Business concerns claiming Section 3 status based on ownership and workforce or workforce only (as applicable) must meet that status at the time the bid or proposal is submitted to the Harris County Housing Authority.
2. Anyone claiming to be a Section 3 resident or business concern shall be required, as set forth by procedure, to provide evidence of such status.
3. Pursuant to 24 CFR 135.36 (c) any firm, prime or subcontractor claiming Section 3 status must demonstrate to the Authority's satisfaction that the business concern is responsible and has the ability to complete the work under the terms and conditions of the proposed contract. In evaluating firms under this provision the Authority will examine:
 - a. the work history and prior performance of the firm;
 - b. the requirements of the job verses the skills evidenced by the firm through its owners, officers, principals, and key staff;
 - c. technical and logistical capacity to complete the work considering contracts already awarded to the firm by the Authority or others;
 - d. bonding capacity and ability to obtain required insurance (with allowances for disadvantaged or startup firms);
 - e. evidence of past sanctions imposed by the Authority or others; and
 - f. evidence that the firm, its principals, associates, partners, subcontractors or others have not acted or colluded in order to circumvent the compliance process by structuring contractual or other relationships or engaging in practices designed to comply with Section 3 only to obtain the preference without regard to the work requirements of the job.
4. A business concern need not hire to be considered a Section 3 business provided that:
 - a. the business concern is 51 % or more owned by a Section 3 resident; or
 - b. the business concern's workforce consists of sufficient numbers of Section 3 residents to qualify the vendor as a Section 3 business (30% or more of the full-time workforce consists of Section 3 residents, or persons who were Section 3 residents within 3 years of first employment); or
 - c. the business concern subcontracts 20% or more of the total amount of the contract (including modifications) and in turn subcontracts 25% of the subcontracted amount to Section 3 business concerns (25% of 20%); or
5. After award of a contract, if a business concern must hire to maintain the Section 3 workforce percentage, new hiring efforts must be made in accordance with the Harris County Housing Authority preference tier for hiring (Category I).
6. If a business concern claims Section 3 status by virtue of workforce composition, documentation of the 30% workforce requirement must be submitted to the Authority as part of the response to the bid, quote, or proposal. Further, the firm must maintain the Section 3 workforce percentage throughout the life of the contract. Workforce composition is subject to audit.
7. A business concern (including joint-ventures) seeking to qualify for a Section 3 preference shall certify and submit evidence that they are entitled to the applicable Section 3 preference and that they are a Section 3 business concern as defined in 24 CFR, Part 135 and by the Harris County Housing Authority pursuant to this policy. Prime or subcontractors must submit documentation (including workforce composition data) as part of any bid, quote, or proposal submitted to the Harris County Housing Authority. Additional documentation is required for joint-ventures.

8. Firms that claim Section 3 business status by subcontracting (25% of 20%) of the total contract) to other Section 3 businesses must require that the subcontractor(s) provide ownership or workforce documentation as applicable. The prime contractors must keep such records on file and available for review by the Authority. Such documentation must also be submitted as part of any bid, quote or proposal.
9. Subcontractors identified by any prime contractor claiming Section 3 status per item 6 must be a Section 3 business by ownership and/or workforce as defined in this policy. Subcontractors used by prime contractors to comply with item 6 cannot claim Section 3 status by further subcontracting.
10. Section 3 Joint-Ventures - to meet Section 3 contracting goals the Authority is permitted to contract with an association of firms as least one of which meets the Authority's definition of a Section 3 business concern. A definition of a joint venture is provided in the definition section of this policy. Compliance requirements for joint-ventures are discussed below.
11. Joint-Ventures are subject to the following documentation requirements:
 - a. The joint-venture agreement must be in writing and must be submitted as part of the response to any bid or proposal solicited by the Harris County Housing Authority. In order for the Authority to evaluate the "adequacy" and "capacity", the agreement must describe in sufficient detail the area(s) of work assigned to each member of the joint-venture.
 - b. The joint-venture agreement must reference a completed and fully executed joint-venture certification, as provided by the Authority, which must also be attached to the joint-venture agreement as an exhibit.
 - c. The Harris County Housing Authority requires that the Section 3 joint-venture partner is a bona-fide Section 3 business; therefore, the joint-venture shall provide documentation that shows that the Section 3 partner meets the ownership and workforce, or workforce requirements established in this policy. Section 3 joint-venture partners cannot use subcontracting to establish their status as a Section 3 business concern.
 - d. Section 3 requires that the joint-venture partner be responsible for a clearly defined portion of the work. Proposals or bids must specify the labor hours assigned to and the compensation to be received by the Section 3 joint-venture firm.
 - e. Section 3 firms in the joint-venture must be qualified to perform the scope of work and have the capacity to complete the work assigned under the joint-venture agreement (see item b above).

Bid or Proposal Evaluation

- A. Vendors who fail to address Section 3 requirements will be deemed nonresponsive. This means that in the proposal or bid documents submitted to the Harris County Housing Authority, the Contractor's Affidavit and Compliance commitment must be completed including applicable attachments and supporting documentation to support claims of compliance by hiring, contracting, or other economic opportunities.
- B. After written notice from the Harris County Housing Authority specifying the defects in the Section 3 information, vendors will be given no more than 5 business days to complete the form and provide all required documents. Failure to respond within the 5 days will result in the Authority declaring the bidder or respondent non-responsive. The contract or bid will then be awarded to the next lowest bidder or to the respondent with the next highest score. Where the selection is a qualifications-based procurement, the Harris County Housing Authority will award to the firm that is the next highest ranked.

DEFINITIONS

NEW HIRES- Persons selected to fill full-time, temporary or seasonal employment opportunities.

RESIDENT OWNED BUSINESS (ROB)- A ROB is a business concern owned or controlled by affordable housing residents, that is: (a) at least 51 % owned by one or more affordable housing residents; and (b) whose management and daily business operations are controlled by one or more such individuals. For the purpose of Section 3 compliance, a ROB must also meet the Housing Authority's definitions of a Section 3 business concern as described below.

EMPLOYMENT OPPORTUNITIES GENERATED BY SECTION 3 COVERED ASSISTANCE- All employment opportunities generated by the expenditure of Section 3 covered PIH assistance (i.e. operating assistance, development assistance, and modernization assistance) and with respect to Section 3 covered housing and community development assistance, all employment opportunities arising in connection with Section 3 covered projects, including management and administrative jobs (including architectural, engineering, or related professional services and jobs directly related to administrative support of these activities) connected with the Section 3 covered project.

RECIPIENT- Any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian Tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

SECTION 3- Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

SECTION 3 BUSINESS CONCERN- As defined by the Harris County Housing Authority, a Section 3 business concern is one:

- A. That is fifty-one (51 %) or more owned by Section 3 residents; or
- B. Whose full-time employees includes persons, at least 30 percent of whom are current Section 3 residents, or were Section 3 residents within three (3) years of the date of first employment with the business concern; or
- C. That provides evidence of a commitment to: (1) subcontract 25 percent or more of the total amount of the contract (including any modification); and (2) in turn subcontracts in excess of 25 percent of the amount from (1) to Section 3 business concerns as defined in A or B (25% of 20%).

Example: If the contract amount is \$1,000,000, vendor must subcontract at least 20% or \$200,000. Of the \$200,000, 25% or \$50,000 must go to Section 3 business concern(s) as defined in A or B.

SECTION 3 CLAUSE- The contract provisions and sanction set forth in 24 CFR 135.8.

SECTION 3 COVERED ACTIVITY- Any activity that is funded by Section 3 covered assistance including Affordable housing assistance.

SECTION 3 COVERED ASSISTANCE- There are no dollar amount thresholds for PIH (Public and Indian Housing) funded Section 3 covered activities. Section 3 applies to all contractors and

subcontractors performing work in connection with the following assistance regardless of the amount of the contract or subcontract:

- Public and Indian housing development assistance provided pursuant to Section 5 of the 1937 Act;
- Public and Indian housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- Public and Indian housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- Section 8 assistance for work arising in connection with; housing rehabilitation, housing construction, or other public construction projects.

SECTION 3 COVERED CONTRACT- A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance or for work arising in connection with a Section 3 covered project. "Section 3 covered contracts" do not include contracts for the purchase of supplies and materials except, whenever a contract for materials includes the installation of the materials, the contract constitutes a "Section 3 covered contract."

SECTION 3 COVERED PROJECT- The construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

SECTION 3 JOINT VENTURE- An association of business concerns, one of which qualifies as a Section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 business concern:

- Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
- Performs at least 25% of the work and is contractually entitled to compensation proportional to its work.

SECTION 3 RESIDENT-

- A. An affordable housing resident or
- B. An individual who resides in Harris County and who meets the following criteria:
 - i. Low-income persons-families (or single persons) whose incomes do not exceed 80 per centum of the median income for the area.
 - ii. Very low-income persons-families (or single persons) whose incomes do not exceed 50 per centum of the median income for the area.

Attachment M

HARRIS COUNTY HOUSING AUTHORITY

Ethics Policy

Effective: August 15, 2012

Last Revised: August 5, 2015

INDEX

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- B. Enforcement
- C. Ethics Policy
 - Economic Benefit
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- D. Sources of Law and Policy
 - Texas Housing Authorities Law
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 - Texas Nepotism Law
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A. PURPOSE

As a county housing authority and public corporation, the Harris County Housing Authority (“Authority”) is obligated to achieve and maintain certain standards of ethics under state law and under its Annual Contributions Contract (“ACC”) with the U. S. Department of Housing and Urban Development (“HUD”). To achieve the highest standard of ethics and propriety, the Board of Commissioners adopted and established an Ethics Policy on August 15, 2012, to describe in a single document the various obligations of the Authority prescribed by federal and state law, and its contractual obligations with HUD. The purpose of the Ethics Policy is to maintain the reputation and goodwill of the Authority in Harris County and the state of Texas by ensuring that the public and other governmental entities have confidence in the integrity, independence, and impartiality of the commissioners, officers, employees, and other contractors of the Authority.

B. ENFORCEMENT

The board of commissioners shall recommend to any commissioner appropriate action to remediate or resolve any conflict or violation or shall refer to the Harris County Attorney’s Office the facts and issues regarding any unresolved conflict or violation by a

HARRIS COUNTY HOUSING AUTHORITY

Ethics Policy

commissioner that could constitute inefficiency, neglect of duty, or misconduct in office that might justify removal of the commissioner from office. The board of commissioners shall direct the executive director to remediate or resolve any conflict or violation involving an Authority employee. The executive director may take appropriate action to remedy or resolve an employee conflict or violation, including disciplinary action under the Employee Handbook.

C. ETHICS POLICY

All commissioners and employees shall abide by the provisions of Texas State law and the HUD ACC contained in the Sources of Law and Policy section below. To the extent allowed by federal or state law or the HUD ACC, the following rules shall further regulate the conduct of commissioners and employees to avoid the appearance or risk of impropriety:

Economic Benefit

A commissioner or employee shall not take any official action that he or she knows is likely to affect the economic interest of the commissioner or employee or their immediate family; an outside client or customer; a household member; the outside employer or a parent, child or spouse; a business entity or its affiliate of the commissioner or employee or their immediate family; a person or business entity from whom the commissioner or employee, or a spouse, has, within the previous 12 months, solicited, received and not rejected, or accepted an offer of employment, or with whom the commissioner or employee, or a spouse, has engaged in negotiations pertaining to business opportunities. Any commissioner or employee shall disclose such a relationship or interest and refrain from participation in any discussion or official action in the affected matter. A commissioner who is required to refrain from participation or action under this Section shall not be counted as “absent” for purposes of making a quorum under Article III, Section 7 of the Authority’s Bylaws, because of the commissioner’s refrainment.

Unfair Participation

A commissioner or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person, including himself or herself, any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A commissioner or employee shall not acquire an interest in, or acquire an interest affected by, any contract, transaction, decision or other matter, if the commissioner or employee knows that the interest will be affected by the impending official action by the Authority. A commissioner or employee may not enter into any agreement or understanding with any person that official action by the commissioner or employee will be rewarded or reciprocated by the other person. A commissioner or employee shall not appoint or employ, or vote to appoint or employ, any relative within the third degree of consanguinity or second degree of affinity to any office or position within the Authority. No commissioner or employee shall supervise a relative in the third degree of consanguinity or second degree of affinity. If an employee, because of marriage,

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Ethics Policy

promotion, reorganization, or otherwise, is placed into the line of supervision of a proscribed relative, one of the employees must be reassigned or other arrangements made for supervision. Any commissioner or employee shall disclose such a relationship or interest and refrain from participation in any discussion or official action in the affected matter.

Gifts

A commissioner or employee, and second degree relatives or outside business associates, shall not solicit, accept, or agree to accept any gift to benefit for himself or herself or an interested business entity that reasonably tends to influence or reward official conduct or that the commissioner or employee knows is being offered with the intent to influence or reward official conduct. A commissioner or employee shall not solicit any gift or benefit but may accept or agree to accept a non-cash gift of nominal value and meals in an individual expense of \$50 or less at any occurrence from any individual or business entity doing or seeking to do business with the Authority. However, except as provided in the sentence immediately below, such gifts may not in aggregate exceed \$250 during any 12-month period. Gifts of reasonable value related to a special occasion and the relationship between the donor and recipient, reasonable public awards, or rewards for meritorious service or professional achievement, scholarships and fellowships, admissions to events in his or her official capacity or a spouse's position, and solicitations for civic or charitable causes are excluded from this rule.

Confidential Information

A commissioner or employee shall not use his or her official position to obtain official information about any person or entity for any purpose other than in the performance of official duties. A commissioner or employee shall not intentionally, knowingly, or recklessly disclose any confidential information concerning the property, operations, policies, affairs, or tenants of the Authority excepted as permitted by the Texas Public Information Law or applicable federal law or regulation.

Representation of Private Interests

A commissioner or employee shall not represent any person, group, or entity before the Authority's board of commissioners or before staff having policy-making or decision-making responsibility. A commissioner or employee shall not assert the prestige of the commissioner's or employee's position for the purpose of advancing private interests or state, or imply that he or she is able to influence Authority action on any basis other than the merits.

Outside Employment

A commissioner or employee shall not solicit, accept, or engage in concurrent outside employment which could be reasonably expected to impair independence of judgment in or faithful performance of official duties. A commissioner or employee shall not provide services to an outside employer related to the commissioner or employee's official duties. A commissioner or employee shall disclose any outside employment to the Authority board of commissioners upon initial appointment and annually thereafter.

HARRIS COUNTY HOUSING AUTHORITY

Ethics Policy

Authority Property and Resources

A commissioner or employee shall not use, request, or permit the use of Authority facilities, personnel, vehicles, equipment, tools, supplies, property, or resources for personal, private, or political activities or purposes.

Political Activity

A commissioner or employee shall not induce or attempt to induce any commissioner or employee to participate in a partisan election campaign, contribute to a candidate or political action committee, or engage in any other political activity relating to a particular party, candidate, or issue, or to refrain from engaging in any lawful political activity. A commissioner or employee may encourage another to vote generally. A commissioner or employee shall not accept any compensation for services in any political activity related to any federal, state or local election for a candidate or issue.

Third-Party Actions

A commissioner or employee shall not assist or induce, or attempt to assist or induce, any person to violate any provision in the Ethics Policy. A commissioner or employee shall not circumvent the Ethics Policy through the acts of another person.

Interest in Contracts

A commissioner or employee shall not have a private or personal financial interest in any contract with the Authority or in the sale to the Authority of any land, materials, supplies, or service. A private or personal financial interest arises when a party to the contract or sale involves the commissioner or employee, or a parent, child or spouse, or a business entity in which the commissioner or employee, or a parent, child or spouse, owns 10% of the voting stock or shares, or of the fair market value of the business entity, or a business entity that is a subcontractor on an Authority contract, a partner, or a parent, or subsidiary business entity.

Disclosure, Determination, and Resolution of Conflicts and Violations

A commissioner or employee shall disclose any known conflicts of interest, proscribed relationships, or apparent or potential violations of the laws, HUD's ACC, or Ethics Policy to the board of commissioners and executive director upon initial appointment or employment and annually upon the beginning of each fiscal year. The Authority's counsel shall prepare disclosure forms, and amendments as necessary or reasonable for approval of the board of commissioners. The board of commissioners shall submit all disclosure forms to Authority counsel for review. Authority counsel shall determine whether there is any actual or potential conflict or violation of the laws, HUD's ACC, or Ethics Policy, and recommend action by the board of commissioners or executive director to resolve any conflict or violation.

Interpretation

Actions subject to the Ethics Policy shall be opined by the counsel to the Authority based on the known facts and issues and reported to the board of commissioners and executive

HARRIS COUNTY HOUSING AUTHORITY

Ethics Policy

director with recommended resolution of a conflict or violation of the law or general rules.

Annual Trainings

Commissioners are required to attend annual program and Board of Commissioners training to review the requirements of this Ethics Policy and their other responsibilities as Commissioners for Harris County Housing Authority.

D. SOURCES OF LAW AND POLICY

Certain Texas laws govern the ethics of commissioners and employees of housing authorities. The Ethics Policy will be amended automatically to incorporate any legislative amendments to these statutes that become law.

Texas Housing Authorities Law

The Texas Housing Authorities Law, Tex. Local Government Code, Chapter 392, includes two provisions regarding conflicts of interest affecting commissioners and employees:

Sec. 392.042. Interested Commissioners.

(a) In this section, "housing project" includes, in addition to the works or undertakings described by Subdivision (6) of Section 392.002:

- (1) a work or undertaking implemented for a reason described by Subdivision (6) of Section 392.002 that is financed in any way by public funds or tax-exempt revenue bonds; or
- (2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity.

(b) Except as provided by Subsection (c), a commissioner of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

- (1) housing project;
- (2) property included or planned to be included in a housing project;
- (3) contract or proposed contract for the sale of land to be used for a housing project;
- (4) contract or proposed contract for the construction of a housing project; or
- (5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.

(c) A commissioner may:

- (1) manage a housing project;
- (2) own, acquire, or control a management company that renders management services to a housing project;
- (3) continue to own or control an interest in a housing project held by the commissioner before the commissioner's term of office began; or

HARRIS COUNTY HOUSING AUTHORITY

Ethics Policy

- (4) own, acquire, or control an interest in, or have dealings with, a housing project over which the commissioner's housing authority does not have jurisdiction.
- (d) If a commissioner manages, owns, acquires, or controls a direct or indirect interest in property included or planned to be included in a housing project or has any other dealings for pecuniary gain with a housing project, the commissioner shall immediately disclose the interest or dealings to the authority in writing. The disclosure shall be entered in the minutes of the authority. The failure to disclose the interest constitutes misconduct of office.
- (e) A commissioner who knowingly or intentionally violates Subsection (b) or (d) commits an offense. An offense under this subsection is a felony of the third degree.
- (f) A person finally convicted under Subsection (e) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state.

§ 392.043. Interested Employees

- (a) Except as provided by Subsection (b), (c), or (f), an employee of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:
 - (1) housing project;
 - (2) property included or planned to be included in a housing project;
 - (3) contract or proposed contract for the sale of land to be used for a housing project;
 - (4) contract or proposed contract for the construction of a housing project; or
 - (5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.
- (b) An employee may not have any dealings with a housing project for pecuniary gain except in the performance of duties as an employee of the housing authority.
- (c) Except as otherwise permitted by this chapter or another law, an employee of an authority may not be employed by or otherwise contract to provide services to another authority unless the first authority gives its written consent to the employment or contract. An employee of an authority who is employed by or who contracts to provide services to another authority under this subsection does not violate Subsection (a) or (b).
- (d) An employee who knowingly or intentionally violates Subsection (a) or (c) commits an offense. An offense under this subsection is a felony of the third degree.
- (e) A person finally convicted under Subsection (d) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state.
- (f) An employee of an authority may be a party to or otherwise participate in a contract or agreement for assistance under a housing program, including a contract or agreement for public housing, Section 8 housing assistance, low-interest home loans, lease-purchase assistance, or down payment assistance, to the same extent as a member of the public if the employee qualifies for assistance under the program.
- (g) In this section, "Section 8 housing assistance" means housing assistance provided under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

Local Public Official Conflict of Interest

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The Texas Government Code, Chapter 171, establishes conflict of interest boundaries for local public officials. Those applicable to housing authority commissioners and officers are included below:

§ 171.001. Definitions

In this chapter:

- (1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.
- (2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

§ 171.002. Substantial Interest in Business Entity

- (a) For purposes of this chapter, a person has a substantial interest in a business entity if:
 - (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
 - (2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.
- (b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
- (c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

§ 171.003. Prohibited Acts; Penalty

- (a) A local public official commits an offense if the official knowingly:
 - (1) violates Section 171.004;
 - (2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or
 - (3) acts as surety on any official bond required of an officer of the governmental entity.
- (b) An offense under this section is a Class A misdemeanor.

§ 171.004. Affidavit and Abstention From Voting Required

- (a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:
 - (1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

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(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

§ 171.005. Voting on Budget

(a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

- (1) the member has complied with this chapter; and
- (2) the matter in which the member is concerned has been resolved.

§ 171.006. Effect of Violation of Chapter

The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

§ 171.007. Common Law Preempted; Cumulative of Municipal Provisions

(a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

§ 171.009. Service on Board of Corporation for No Compensation

It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

Texas Nepotism Law

The Texas Nepotism Law, Texas Government Code, Chapter 573, limits the relationships of a public official to employees and candidates for public positions:

§ 573.001. Definitions

In this chapter:

- (1) "Candidate" has the meaning assigned by Section 251.001, Election Code.
- (2) "Position" includes an office, clerkship, employment, or duty.
- (3) "Public official" means:

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- (A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;
- (B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or
- (C) a judge of a court created by or under a statute of this state.

§ 573.002. Degrees of Relationship

Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

SUBCHAPTER B. RELATIONSHIPS BY CONSANGUINITY OR BY AFFINITY

§ 573.021. Method of Computing Degree of Relationship

The degree of a relationship is computed by the civil law method.

§ 573.022. Determination of Consanguinity

- (a) Two individuals are related to each other by consanguinity if:
 - (1) one is a descendant of the other; or
 - (2) they share a common ancestor.
- (b) An adopted child is considered to be a child of the adoptive parent for this purpose.

§ 573.023. Computation of Degree of Consanguinity

- (a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.
- (b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:
 - (1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
 - (2) the number of generations between the relative and the nearest common ancestor.
- (c) An individual's relatives within the third degree by consanguinity are the individual's:
 - (1) parent or child (relatives in the first degree);
 - (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and
 - (3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

§ 573.024. Determination of Affinity

- (a) Two individuals are related to each other by affinity if:
 - (1) they are married to each other; or
 - (2) the spouse of one of the individuals is related by consanguinity to the other individual.

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(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

§ 573.025. Computation of Degree of Affinity

(a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

(b) An individual's relatives within the third degree by affinity are:

- (1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and
- (2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

SUBCHAPTER C. NEPOTISM PROHIBITIONS

§ 573.041. Prohibition Applicable to Public Official

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- (1) the individual is related to the public official within a degree described by Section 573.002; or
- (2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

§ 573.062. Continuous Employment

(a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

- (1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and
- (2) that prior employment of the individual is continuous for at least:
 - (A) 30 days, if the public official is appointed;
 - (B) six months, if the public official is elected at an election other than the general election for state and county officers; or
 - (C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any

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deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

SUBCHAPTER E. ENFORCEMENT

§ 573.081. Removal In General

(a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.

(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection (a).

§ 573.082. Removal by Quo Warranto Proceeding

(a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.

(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

§ 573.083. Withholding Payment of Compensation

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

§ 573.084. Criminal Penalty

(a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.

(b) An offense under this section is a misdemeanor punishable by a fine not less than \$100 or more than \$1,000.

HUD Annual Contributions Contract

The Annual Contributions Contract (Form HUD-53012A) (ACC) between HUD and the Housing Authority prohibits certain interests involving commissioners and employees:

Section 19 – Conflict of Interest

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(A)(1) In addition to any other applicable conflict of interest requirements, neither the Authority nor any of its contractors or their contractors may enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

(i) Any present or former member or officer of the governing body of the HA, or any member of the officer's immediate family. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, the Authority or a business entity.

(ii) Any employee of the Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

(iii) Any public official, member of the local governing body, or State or local legislator, or any member of such individual's immediate family, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) Any member of these classes of persons must disclose the member's interest or prospective interest to the Authority and HUD.

(3) The requirements of this subsection (A)(1) may be waived by HUD for good cause, if permitted under State and local law. No person for whom a waiver is requested may exercise responsibilities or functions with respect to the contract to which the waiver pertains.

(4) The provisions of this subsection (A) shall not apply to the General Depository Agreement entered into with an institution regulated by a Federal agency, or to utility service for which rates are fixed or controlled by a State or local agency.

(5) Nothing in this section shall prohibit a tenant of the Authority from serving on the governing body of the HA.

(B)(1) The Authority may not hire an employee in connection with a project under this ACC if the prospective employee is an immediate family member of any person belonging to one of the following classes:

(i) Any present or former member or officer of the governing body of the HA. There shall be excepted from this prohibition any former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the HA.

(ii) Any employee of the Authority who formulates policy or who influences decisions with respect to the project(s).

(iii) Any public official, member of the local governing body, or State or local legislator, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) The prohibition referred to in subsection (B)(1) shall remain in effect throughout the class member's tenure and for one year thereafter.

(3) The class member shall disclose to the Authority and HUD the member's familial relationship to the prospective employee.

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(4) The requirements of this subsection (B)(1) may be waived by the Authority Board of Commissioners for good cause, provided such waiver is permitted by State and local law.

(C) [applies only to an Indian Housing Authority]

(D) For purposes of this section, the term “immediate family member” means the spouse, mother, father, brother, sister, or child of a covered class member (whether related as a full blood relative, or as a “half” or “step” relative, e.g., a half-brother of stepchild).