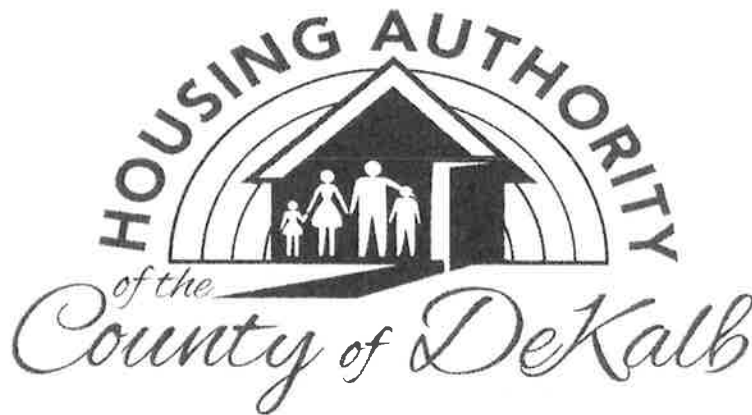


REQUEST FOR PROPOSAL (RFP)



ASPHALT SERVICES
20-072
PARKING LOT CRACK FILLING,
SEAL COATING & STRIPING

Housing Authority of the County of DeKalb
310 N 6th Street
DeKalb IL 60115

February 5, 2020

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

RFP Document

Table of Contents

[Table No. 1]

Section	Description	Page
	Introduction	3
	RFP Information at a Glance	3
1.0	HACD'S Reservation of Rights	4
2.0	Scope of Work/Technical Specifications	4
3.0	Proposal Format	12
3.1	Tabbed Proposal Submittal	13
3.1.12	Proposal Submittal Binding Method	14
3.3.6	Davis Bacon Wage	16
3.4	Proposal Submission	17
3.5	Proposer's Responsibilities--Contact With the HACD	18
4.0	Proposal Evaluation	19
4.1	Evaluation Factors	19
4.2	Evaluation Method/Plan	20
5.0	Contract Award	22
5.1	Contract Award Procedure	22
5.2	Contract Conditions	22
5.3	Contract Period	23
5.4	Licensing and Insurance Requirements	23
5.5	Right to Negotiate Fees	24
5.6	Contract Services Standards	24
	Proposal Sheet- (Contractor Bid Sheet) Include In Tab 4	25-27

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

INTRODUCTION

The Housing Authority of the County of DeKalb (hereinafter, "HACD") is a public entity that was formed in 1946 to provide federally subsidized housing and housing assistance to low-income families, within the County of DeKalb. The HACD is headed by an Executive Director (ED) and is governed by a five-person board of commissioners and is subject to the requirements of Title 24 of the Code of Federal Regulations (hereinafter, "CFR") and the HACD's procurement policy. Owner's Contacting Officer (CO) for the work is its Capital Projects, Contracts & Procurement Manager.

Currently, the HACD owns and/or manages: multi-family apartment complexes totaling 391 units, and administers a total of 611 Section 8 Housing Choice Vouchers (for a total of 1,002). The HACD currently has approximately 23 employees.

In keeping with its mandate to provide efficient and effective services, the HACD is now soliciting proposals from qualified, licensed and insured entities to provide the above noted services to the HACD. All proposals submitted in response to this solicitation must conform to all of the requirements and specifications outlined within this document and any designated attachments in its entirety.

RFP INFORMATION AT A GLANCE

[Table No. 2]

HACD CONTACT PERSON

Randy J. Bourdages
Capital Projects, Contracts & Procurement Manager
Telephone [815-758-2692 x.122]
Cell Phone [815-739-0010]
rbourdages@dekcohousing.com

**HOW TO OBTAIN THE RFP DOCUMENTS
ON THE APPLICABLE INTERNET SITE**

1. Access www.dekcohousing.com.
2. Click on the Procurement and Contracting on the left side.

PRE-PROPOSAL CONFERENCE

N/A

**HOW TO FULLY RESPOND TO THIS RFP
BY SUBMITTING A PROPOSAL**

3. As instructed within Section 3.0 of the RFP document, submit 1 copy of your "hard copy" proposal to the HACD Central office.

**PROPOSAL SUBMITAL RETURN &
DEADLINE**

Thursday March 5, 2020 3:00 p.m.
The Housing Authority of the County of DeKalb
310 N. 6th Street, DeKalb, IL 60115
The proposal must be received in-hand and time-stamped by the HACD by no later than 3:00 PM on this date.

1.0 HACD’S RESERVATION OF RIGHTS:

- 1.1 The HACD reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by the HACD to be in its best interests.
- 1.2 The HACD reserves the right not to award a contract pursuant to this RFP.
- 1.3 The HACD reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 10 days written notice to the successful proposer(s).
- 1.4 The HACD reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
- 1.5 The HACD reserves the right to retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of the HACD Contracting Officer (CO).
- 1.6 The HACD reserves the right to negotiate the fees proposed by the proposer entity.
- 1.7 The HACD reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- 1.8 The HACD shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- 1.9 The HACD shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.

2.0 SCOPE OF WORK (SOW)/TECHNICAL SPECIFICATIONS (T/S): The HACD is seeking proposals from qualified, licensed and bonded entities to provide the following detailed services:

Contractor to provide Parking Lot maintenance to include crack filling services, seal coating and striping of parking lots and driveways at HACD sites as outlined in this specification. (Table 3) There may need some asphalt patching as well. The contractor shall furnish all personnel, parts, materials,

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

equipment, tools and services in conformance with the specifications. Services shall be provided by qualified and trained service personnel. The contractor shall also repair or replace asphalt as requested by the HACD representative.

All labor, travel cost and equipment cost for additional services shall be billed according to rates quoted in the contractors proposals and as authorized via HACD issued Task Orders.

- 2.1 Service Locations:** The successful proposer will, as required by code, law or regulation, provide required services to the parking lots at the following HACD developments:

HACD Service Locations

(All measurements by Proposer)

[Table No. 3]

RFP Section	Building Name	Item No.	Qty	U/M	Description
					507 E Taylor Street DeKalb
2.1.2	Taylor Street Plaza				
2.1.2		1		Lin. Ft	Crack Filling
2.1.3		2		Sq. Ft	Asphalt Seal Coating
2.1.4		3		Lin. Ft	Striping
2.1.5		4		Sq. Ft	Patching
					720 14th & 1428 Lewis Streets DeKalb
2.1.6	Lewis Court		DeKalb		
2.1.7		1		Lin. Ft	Crack Filling
2.1.8		2		Sq. Ft	Asphalt Seal Coating
2.1.9		3		Lin. Ft	Striping
2.1.10		4		Sq. Ft	Patching
					350 Grant Street Sycamore
2.1.11	Civic Apartments		Sycamore		
2.1.12		1		Lin. Ft	Crack Filling
2.1.13		2		Sq. Ft	Asphalt Seal Coating
2.1.14		3		Lin. Ft	Striping
2.1.15		4		Sq. Ft	Patching
					275 North Cross Street Sycamore
2.1.16	Mason Court		Sycamore		
2.1.17		1		Lin. Ft	Crack Filling
2.1.18		2		Sq. Ft	Asphalt Seal Coating
2.1.19		3		Lin. Ft	Striping
2.1.20		4		Sq. Ft	Patching

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

Buildings 101 - 110 Courtyard					
2.1.21	Mason Court		Sycamore		
2.1.22		1		Lin. Ft	Crack Filling
2.1.23		2		Sq. Ft	Asphalt Seal Coating
2.1.24		3		Lin. Ft	Striping
2.1.25		4		Sq. Ft	Patching
Building 201 - 216 Courtyard					
2.1.26	Mason Court		Sycamore		
2.1.27		1		Lin. Ft	Crack Filling
2.1.28		2		Sq. Ft	Asphalt Seal Coating
2.1.29		3		Lin. Ft	Striping
2.1.30		4		Sq. Ft	Patching
Mason Parking Lot					
2.1.31	Mason Court		Sycamore		
2.1.32		1		Lin. Ft	Crack Filling
2.1.33		2		Sq. Ft	Asphalt Seal Coating
2.1.34		3		Lin. Ft	Striping
2.1.35		4		Sq. Ft	Patching
234 Garden Street					
2.1.36	Garden Estates		Sycamore		
2.1.37		1		Lin. Ft	Crack Filling
2.1.38		2		Sq. Ft	Asphalt Seal Coating
2.1.39		3		Lin. Ft	Striping
2.1.40		4		Sq. Ft	Patching
427 Haish Blvd					
2.1.41	Garden Estates		DeKalb		
2.1.42		1		Lin. Ft	Crack Filling
2.1.43		2		Sq. Ft	Asphalt Seal Coating
2.1.44		3		Lin. Ft	Striping
2.1.45		4		Sq. Ft	Patching
965 Dresser Road					
2.1.46	Dresser Court		DeKalb		
2.1.47		1		Lin. Ft	Crack Filling
2.1.48		2		Sq. Ft	Asphalt Seal Coating
2.1.49		3		Lin. Ft	Striping
2.1.50		4		Sq. Ft	Patching

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

					3345 Resource Parkway
	Briarwood Apts.		DeKalb		
2.1.51		1		Lin. Ft	Crack Filling
2.1.52		2		Sq. Ft	Asphalt Seal Coating
2.1.53		3		Lin. Ft	Striping
2.1.54		4		Sq. Ft	Patching
					303-313 Gurler Street
	Gurler Apts		DeKalb		
2.1.55		1		Lin. Ft	Crack Filling
2.1.56		2		Sq. Ft	Asphalt Seal Coating
2.1.57		3		Lin. Ft	Striping
2.1.58		4		Sq. Ft	Patching

2.2 General Requirements/Specifications (listed in alpha order):

- 2.2.1 Additional Work:** Installation or repair work shall be performed by the contractor only if HACD has given prior written permission to do so. All such work shall be at HACD's expense, unless such damage or problem was necessitated by the actions or lack of action of the contractor.
- 2.2.2 Applicable Codes/Statutes/Regulations:** All work provided by the contractor pursuant to the ensuing contract shall be completed pursuant to all applicable local code, State Statute, and Federal regulation, and the work plan submitted shall reflect such.
- 2.2.3 Availability:** The HACD work with the contractor to coordinate a time and date for each property listed in [Table 3]
- 2.2.4 Call-backs:** The contractor shall provide unlimited call-back service on guaranteed work.
- 2.2.5 Contractor's Qualifications:** The contractor must be fully qualified to install, inspect and repair the Parking Lot listed herein.
- 2.2.6 Drawings/Lists:** Any drawings or lists herein are provided as an aid only to the prospective proposers. These items do not purport to show the full scope or exact location of all applicable Parking Lots, but do purport to show the approximate quantities and locations of the Parking Lots at each location listed. It is the responsibility of each proposer to carefully inspect the premises listed and to notify the CO, in writing, of any discrepancies in the drawings or lists provided. If any prospective or successful proposer has difficulty in locating the Parking Lots listed, it is his/her responsibility to locate and question the on-site HACD personnel as

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

to the possible locations of such Parking Lots and to notify the CO, in writing in a timely manner, of any such Parking Lot that cannot be located. If there is any discrepancy between the Parking Lot listed herein and the Parking Lot actually at the site, all work performed by the contractor shall be at the unit rates proposed by the contractor in response to this RFP.

2.2.7 Emergency Situations: The contractor must inform HACD designated contact, immediately verbally or by telephone and within 24 hours in writing, of any life-threatening or possibly dangerous situations that come to the attention of or are discovered at any time by the contractor. The contractor shall also within 3 work-days of becoming aware of such, notify HACD designated contact of any necessary and/or recommended work or additions he/she feels is necessary to the existing Parking Lots. Such notification shall include a fully detailed proposal to correct the situation, which shall include:

2.2.6.1 A fully detailed statement of the problem, identifying and quoting any applicable code, law or regulation.

2.2.6.2 The corrective action proposed.

2.2.6.3 The detailed costs, at the applicable contract rates, separating materials and labor.

2.2.6.4 The proposed timeframe for the corrective action.

2.2.7 Employee Identification: At all times while on HACD property to perform work, all employees, agents and representatives of the contractor shall wear distinctive identifications (i.e. uniforms; photo ID badge; etc.) to clearly identify that person as a representative of the contractor.

2.2.8 Failure to Perform: If the contractor fails to perform the work required by the terms of the ensuing contract in a diligent, timely and satisfactory manner, HACD may perform or cause to be performed all or any portion of such required work. The contractor agrees that he/she will reimburse HACD for any such expense incurred by HACD; or, HACD may, without prior notice to the contractor, deduct such amount from any sum owed to the contractor by HACD.

2.2.9 Guarantee: All work performed by the contractor shall be fully Guaranteed for 1year including labor and materials.

2.2.10 Incomplete Listing: The contractor shall inform HACD, in writing, within 5 days of the discovery of such, as to any incorrect or incomplete listing of

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

Parking Lots included as a part of this document.

2.2.11 Inspections/Schedules: It is expected that contractor will complete all inspection work prior to submitting a proposal. These inspections are required and the contractor shall be responsible for any financial costs incurred as the result of his/her failure to identify the work required in advance of submitting his/her proposal.

2.2.11.1 Type of proposed repair;

2.2.11.2 Applicable HACD location;

2.2.11.3 Specific planned start date for each location;

2.2.11.4 Name of the inspector and his/her contact number.

2.2.12 Invoices: All billing invoices for services must be delivered to the designated HACD contact including the project site name and address within no more than 30 days of completion of the work. A copy of the applicable report shall accompany the billing invoice. HACD shall endeavor to pay the net amount within 30 days of receipt all such invoices that are properly submitted.

2.2.13 Labor vs. Parts/Supplies: The contractor shall be responsible to provide all labor to accomplish the services noted herein. HACD shall be responsible to pay to the contractor, at the rate agreed upon (i.e. cost plus) for all parts, equipment and supplies used to accomplish the work.

2.2.14 Local Code Changes: The contractor shall be responsible for ensuring that all material that is installed is in conformance with all applicable local, State and Federal regulations, codes and/or laws. All work shall be performed by the contractor in conformance with all applicable local, state and federal requirements.

2.2.15 Modifications: At any time during the ensuing contract period, should the contractor wish to make any change, modification or addition to the existing equipment, including whether or not such entails additional payment to the contractor by HACD, the contractor shall submit such request in written form to the designated HACD contact person and may not proceed unless written permission is granted to proceed.

2.2.16 Normal Work Hours/Overtime Costs: Unless otherwise approved by the designated HACD contact person, all scheduled work shall be performed during normal business hours and day (typically, Monday-Friday, 7:00 a.m. to 5:00 p.m., excluding designated holidays). To perform the work

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

required by the ensuing contract, the contractor shall not be entitled to any overtime payment, except as approved prior in writing by the designated HACD contact person.

2.2.17 Supplies: In performing the required work the contractor agrees to provide only the best material normally used for the project at hand.

2.2.18 Performance Requirements: Each proposer shall include as a part of the information submitted under Tab No. 4 the performance standards he/she will meet. All work shall be conducted pursuant to the manufacturer's current standards.

2.2.19 Posting of Notice: The contractor shall post adjacent to the ongoing work a clearly visible notice identifying the contractor by name and the applicable emergency telephone number.

2.2.20 Removal of Equipment: No related equipment owned by HACD may be removed without the written permission of the designated HACD contact person, and then such will occur only at the convenience of HACD. If the Contractor desires to remove equipment, he/she shall deliver to the designated HACD contact person at least 10 days prior to such a written notice of his/her intent to do so, along with a detailed explanation as to why he/she feels such is necessary.

2.2.21 Reports: It shall be the responsibility of the contractor to complete, in a legible fashion, during and after each testing, inspection and/or installation, any required reports, copies of which must be delivered to HACD within 10 days of completion of such event, and which shall be delivered by the contractor, as required by any code, law or regulation, to any and all applicable local, State or Federal agencies.

2.2.22 Response Time: The contractor shall arrive at the site within 2 weeks of receiving the task order to accomplish the work or must immediately notify the designated HACD contact person of his/her inability to do such. In each case, HACD shall then have the right to contact another firm to address the problem.

2.2.23 Return to Site: Within no more than 3 days of being notified by HACD, the contractor shall return to any site to correct any work already performed unsatisfactorily.

2.2.24 Right to Inspect and Require Work: HACD reserves the right to make such inspections and tests whenever HACD feels such is necessary to ascertain

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

that the requirements of the ensuing contract are being fulfilled. The contractor will be notified in writing of any deficiencies and corrections that must be made and the contractor shall complete such within 5 working days of receipt of such written notification.

2.2.25 Service Calls: The contractor's representative shall check in and out with HACD CO at the site when performing any work at the site.

2.2.26 Standards: All work shall be performed pursuant to standards and codes set by any local, State or Federal agency having jurisdiction (it is the responsibility of the successful proposer or contractor to deliver to HACD prior written notice of any issue of conflict in the standards set by the aforementioned agencies).

2.2.27 Structures: The contractor is hereby authorized to make necessary and reasonable preparations such as drilling holes, driving nails, making attachments or other such alterations to maintain, install and/or monitor the required equipment. The contractor shall be responsible (including financially) for any damage to HACD equipment or property that results from such installations by the contractor, except such nominal damage that would normally occur from such installations, such as nail holes, etc., unless such damage was caused as a result of any substandard condition of HACD property not the fault of the contractor.

2.2.28 Subcontracting: Unless prior written permission is given by HACD, all work performed by the contractor shall be performed by the contractor only and shall not be sub-contracted to another firm. HACD reserves the right to not grant such approval.

2.2.29 Traffic Plan/Public Safety: The contractor shall be responsible for maintaining public convenience and safety, both inside and outside of the related areas of the premises, during the performance of the work. When necessary, the contractor shall provide portable barriers, clearly distinguishable, and placed at least 10 feet in front of the work area. All barriers must be prominently marked to warn pedestrians and placed in such a manner to ensure safe passage around the work area.

2.2.30 Work Plan: Each proposer shall include within the information submitted under Tab No. 4 of the proposal submittal a specific work plan of proposed work for each of the sites identified within Section 2.1 of this document. Such work plan shall detail the specific work that will be completed and within what timeframe. Please be detailed and clear as to what specific services you will perform and when!

2.2.31 Written Approval: The contractor shall obtain from HACD designated contact written approval to proceed with any additional work prior to commencing such (EXCEPTION: HACD designated contact may, in the case of an emergency affecting the health, safety or welfare of HACD residents, staff or the public, give the contractor verbal permission to proceed; however, the contractor shall by 10:00 a.m. the next business day, in writing, recap such verbal permission and deliver such by fax or in person to HACD designated contact and gain his/her written signature acknowledging such.) Failure to abide by this requirement shall cause the

contractor to be fully liable and financially responsible for the work performed, which means that HACD shall have no obligation to pay for the work performed, in which case the contractor shall not be allowed to reverse the work.

2.2.31.1 Procedure to Award Additional Work (Task Order): When HACD has need of services, the contractor and HACD representative will meet at the applicable unit, inspect the site and mutually determine the extent of the services needed. Each proposer has already, as a part of his/her proposal submittal, submitted proposed unit fees for the various services that will be needed to complete the work. The following information shall be entered by the contractor on the Task Order form and delivered to HACD. HACD must respond with written approval by signature prior to the Contractor proceeding with the work.

2.2.31.1.1 All applicable descriptions of the services to be provided;

2.2.31.1.2 The applicable quantity of each such service (especially as determined at the aforementioned meeting at the site detailed previously within this section);

2.2.31.1.3 The applicable unit costs for each such products and/or services;

2.2.31.1.4 The calculated total.

2.3 State Contractor's License: As required by State of Nebraska law, the contractor shall have all appropriate licenses.

2.4 Current Contractor: HACD's current contractor for these services is N/A.

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

3.0 PROPOSAL FORMAT:

3.1 Tabbed Proposal Submittal: HACD intends to retain the successful proposer pursuant to a –Best Value basis, not a –Low Bid basis ("Best Value," in that HACD will, as detailed within the following Section 4.0, consider factors other than just cost in making the award decision). Therefore, so that HACD can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted following. Each category must be separated by numbered index dividers (which number

extends so that each tab can be located without opening the proposal) and labeled with the corresponding tab reference also

noted below. None of the proposed services may conflict with any requirement HACD has published herein or has issued by addendum.

[Table No. 3]

TAB Section	Tab No.	Description
3.1.1	1	Form of Proposal: This Form is attached hereto as Attachment A to this RFP document. This 1-page Form must be fully completed, executed where provided thereon and submitted under this section as a part of the proposal submittal.
3.1.2	2	Form HUD-5369-C (8/93), <i>Certifications and Representations of Offerors, Non-Construction Contract</i>: This Form is attached hereto as Attachment B to this RFP document. This 2-page Form must be fully completed, executed where provided thereon and submitted under this section as a part of the proposal submittal.
3.1.2.1	2	Form HUD-5369-A (11/92), <i>Representations, Certifications, and Statements of Proposers, Public and Indian Housing Programs</i>: This Form is attached hereto as Attachment B-1 to this RFP document. This 4-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.
3.1.3	3	Profile of Firm Form: The Profile of Firm Form is attached hereto as Attachment C to this RFP document. This 2-page Form must be fully completed, executed, and submitted under this section as a part of the proposal submittal.
3.1.4	4	Proposed Services: As more fully detailed within Section 2.0, <i>Scope of Proposal/Technical Specifications</i> , of this document, the proposer shall, at a minimum, clearly detail within the information submitted under this section documentation showing:
3.1.4.1	N/A	As detailed within Section 4.1, Evaluation Factor No. 2, herein, the proposer's Demonstrated Understanding of the HA's Requirements.

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

3.1.4.2	N/A	As detailed within Section 4.1, Evaluation Factor No. 3, herein, the proposer's Technical Approach (including, if appropriate, labor categories, estimated hours and skill mix) and the proposer's proposed Work Plan to provide the required services.
3.1.4.3	N/A	As detailed within Section 4.1, Evaluation Factor No. 4, herein, the proposer's Technical Capabilities (in terms of personnel, equipment and materials) and Management Plan (including staffing of key positions, method of assigning work and procedures for maintaining level of service, etc.).
3.1.4.4	N/A	As detailed within Section 4.1, Evaluation Factor No. 5, herein, the proposer's Demonstrated Experience in performing similar work and the proposer's Demonstrated Successful Past Performance (including meeting costs, schedules and performance requirements) of contract work substantially similar to that required by this solicitation.
3.1.5	N/A	Managerial Capacity/Financial Viability: The proposer entity must submit under this tab a concise description of its managerial and financial capacity to deliver the proposed services, including brief professional resumes for the persons identified within areas (5) and (6) of Attachment C, <i>Profile of Firm Form</i> . Such information shall include the proposer's qualifications to provide the services; a description of the background and current organization of the firm.
3.1.6	5	Client Information: The proposer shall submit a listing of former or current clients, including the Public Housing Authorities, for whom the proposer has performed similar or like services to those being proposed herein. The listing shall, at a minimum, include:
3.1.6.1		The client's name;
3.1.6.2		The client's contact name:
3.1.6.3		The client's telephone number;
3.1.6.4		A brief description and scope of the service(s) and the dates the services were provided;
3.1.7	6	Equal Employment Opportunity: The proposer must submit under this tab a copy of its Equal Opportunity Employment Policy.
3.1.8	7	Subcontractor/Joint Venture Information (Optional Item): The proposer shall identify hereunder whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the proposal is a joint venture with another firm. Please remember that all information required from the proposer under the proceeding tabs must also be included for any major subcontractors (10% or more) or from any joint venture.
3.1.9	8	Section 3 Business Preference Documentation (Optional Item): For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

		executed Section 3 Business Preference Certification Form attached hereto as Attachment D and any documentation
3.1.10		Other Information (Optional Item): The proposer may include hereunder any other general information that the proposer believes is appropriate to assist HACD in its evaluation.

3.1.11 If no information is to be placed under any of the above noted tabs (especially the "Optional" tabs), please place there under a statement such as "NO INFORMATION IS BEING PLACED UNDER THIS TAB" or "THIS TAB LEFT INTENTIONALLY BLANK." DO NOT eliminate any of the tabs.

3.1.12 Proposal Submittal Binding Method: It is preferable and recommended that the proposer bind the proposal submittals in such a manner that HACD can, if needed, remove the binding (i.e. –comb-type;ll etc.) or remove the pages from the cover (i.e. 3-ring binder; etc.) to make copies then conveniently return the proposal submittal to its original condition.

3.2 Entry of Proposed Fees: The proposed fees shall be submitted by the proposer and received by HACD in a separate sealed envelope. Do not submit, enter or refer to any fees or costs within the 8-tab –hard copyll proposal submittal detailed within Section 3.0–any proposer that does so may be rejected without further consideration. The Finance Manager will calculate the listed/entered quantities multiplied by the proposed unit fees entered. A proposer must enter a proposed fee for each item--a "No Proposal" will not be allowed for any item within a lot. The proposed fees submitted by each proposer are inclusive of all necessary costs to provide the proposed services not otherwise provided for herein, including, but not limited to: employee costs and benefits; clerical support; overhead; profit; supplies; materials; licensing; insurance; etc.

3.3 Additional Information Pertaining to the Pricing Items:

3.3.1 Asphalt Patching: The contractor's staff will identify, mark and measure proposed areas to be patched. Pricing will be as per proposed The defective material will be completely removed. All substrate will be verified as appropriate or replaced with appropriate material. New asphalt will be a hot mix at least as thick as the original material. New material will be compressed as per industry standards.

3.3.2 Asphalt Seal Coating: The contractor's staff will measure proposed areas to be coated. New coating will be applied as per manufacturers recommendations with regards to weather,

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

thickness, application technique, etc.

- 3.3.3 Lot Striping:** The contractor's staff will restripe lot with the same layout as previously striped. New striping will be applied as per manufacturers' recommendations with regards to weather, thickness, application technique, etc.
- 3.3.4 Notification Must Be Received From Contractor:** The Contractor must notify the CO, in writing, of such desired escalation at least 60 days prior to the end of the noted contract period(s). Such escalations may occur no more than once in any 12-month period without the express written consent of the CO
- 3.3.5 Overtime:** Pursuant to the Contract Work Hours and Safety Standards Act, overtime shall be not less than time and one-half for hours worked in excess of 40 hours per week. HACD shall consider regular time to be Monday-Friday (excluding holidays), 8:00 am - 4:00 pm. Accordingly, HACD will pay a rate of 1.5 of the listed hourly rates within Pricing Items No. 15- 17 (or any increased rate that increased per Section 3.3.4 herein) for any work HACD requires the successful proposer to work specifically during nonregular- time hours (however, HACD shall NOT be responsible to pay the successful proposer for any work that the successful proposer CHOOSES to work during non-regular-time hours).
- 3.3.6 Davis-Bacon (D/B) and/or State Prevailing Wage Rates:** As may apply by statute, regulation or law, if, at any time during the ensuing contract period(s), HACD needs the successful proposer to provide services that require the successful proposer to pay Davis-Bacon Wage Rates for work performed for this RFP.
- 3.3.7** Ascertain the applicable portion of the hourly wage rate(s), as listed within the contract, that applies;
- 3.3.8** Ascertain the current applicable Davis-Bacon or State Prevailing Wage Rate(s) that applies;
- 3.3.9** Ascertain the difference between the two rates, which amount HACD will pay to the successful proposer for that task order only.
- 3.3.10 Locating the Applicable D/B Wage Rates:** As the currently known work pertaining to this RFP will be maintenance-related

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

rather than construction-related, accordingly, there is not a D/B or State Wage Rate General Decision attached to this RFP. If, as detailed within 24 CFR 85.36(h)(5), HACD is required to pay Davis-Bacon wage rates (for all –construction contracts in excess of \$2,000II), and for similar State requirements, HACD will then issue a General Decision as it applies to that work. Current Davis-Bacon wages rates may be viewed by following the following listed steps:

[Table No. 5]

RFP Section	Step No.	DESCRIPTION
3.3.10.1	1	Access the Web and type www.beta.sam.gov
3.3.10.2	2	Click on All Award Data box in the center top of page and the box will open.
3.3.10.3	3	Select Wage Determination and click on Search
3.3.10.4	4	Scroll Down to Wage Determination Type and click on Davis Bacon Act (DBA)
3.3.10.5	5	Select a State Illinois
3.3.10.6	6	Select County/Independent City DeKalb
3.3.10.7	7	Select DBA: Construction Type: Select "Highway;"
3.3.10.8	8	Search Results Click on IL20200011
3.3.10.9	9	Review the General Decision and Select Labor Classification best suited for this job in the RFP.

3.3.11 HUD Maintenance Wage Rates Determination (MWRD): HUD has determined that, for non-construction maintenance work (work not covered by Davis-Bacon requirements), HACD must ensure that contractors do not pay its employees that perform such work for HACD at a rate less than the rates listed on the HUD MWRD. Therefore, by submitting a proposal, each proposer is thereby agreeing to and

verifying that he/she will not pay his/her employees at rates less than the following:

[Table No. 6]

RFP Section	Classification	HUD- Determined Rate	HUD- Determined Fringe
3.3.11.1	Laborer	N/A	N/A

3.4 Proposal Submission: All proposals must be submitted and time-stamped received in the designated HACD office by no later than the submittal deadline stated herein (or within any ensuing addendum). A total of 1 original signature copy (marked "ORIGINAL") and 2 exact copies of the proposal submittal, shall be placed unfolded in a sealed package and addressed to:

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

The Housing Authority of the County of DeKalb
Attention: Randy Bourdages
Capital Projects, Contracts & Procurement Manager
310 N. 6th Street DeKalb, IL 60115

The package exterior must clearly denote the above noted RFP number and must have the proposer's name and return address. Proposals received after the published deadline will not be accepted.

- 3.4.1 Submission Conditions:** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Proposers are not allowed to change any requirements or forms contained herein, either by making or entering onto these documents or the documents submitted any revisions or additions; and if any such additional marks, notations or requirements are entered on any of the documents that are submitted to the HACD by the proposer, such may invalidate that proposal. If, after accepting such a proposal, the HACD decides that any such entry has not changed the intent of the proposal that the HACD intended to receive, the HACD may accept the proposal and the proposal shall be considered by the HACD as if those additional marks, notations or requirements were not entered on such.
- 3.4.2 Submission Responsibilities:** It shall be the responsibility of each proposer to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by the HACD, including the RFP document, the documents listed within the following Section 3.1.1 through 3.1.10, and any addenda and required attachments submitted by the proposer. By virtue of completing, signing and submitting the completed documents, the proposer is stating his/her agreement to comply with the all conditions and requirements set forth within those documents. Written notice from the proposer not authorized in writing by the CO to exclude any of the HACD requirements contained within the documents may cause that proposer to not be considered for award.
- 3.5 Proposer's Responsibilities--Contact With the HACD:** It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP process to the CO only. Proposers must not make inquiry or communicate with any other HACD staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for the HACD to not consider a

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

proposal submittal received from any proposer who may has not abided by this directive.

3.5.1 Addendums: All questions and requests for information must be addressed in writing to the CO. The CO will respond to all such inquiries in writing by addendum to all prospective proposers (i.e. firms or individuals that have obtained the RFP Documents). During the RFP solicitation process, the CO will NOT conduct any *ex parte* (a substantive conversation—substantivell meaning, when decisions pertaining to the RFP are made—between HACD and a prospective proposer when other prospective proposers are not present) conversations that may give one prospective proposer an advantage over other prospective proposers. This does not mean that prospective proposers may not call the CO—it simply means that, other than making replies to direct the prospective proposer where his/her answer has already been issued within the solicitation documents, the CO may not respond to the prospective proposer's inquiries but will direct him/her to submit such inquiry in writing so that the CO may more fairly respond to all prospective proposers in writing by addendum.

3.6 Recap of Attachments: It is the responsibility of each proposer to verify that he/she has downloaded the following attachments pertaining to this RFP, which are hereby by reference included as a part of this RFP:

[Table No. 7]

RFP Section	Attachment	Attachment Description
3.6.1	A	Form of Proposal
3.6.2	B	Form HUD-5369-C (8/93), <i>Certifications and Representations of Offerors, Non-Construction Contract</i>
3.6.3	C	Profile of Firm Form
3.6.4	D	Section 3 Forms, including explanation
3.6.5	E	Form HUD-5369-B (8/93), <i>Instructions to Offerors, Non-Construction</i>
3.6.6	F	<i>HA Instructions To Proposers & Contractors</i>
3.6.7	G	HA Sample Contract Form (please note that this contract is being given as a sample only—the HA reserves the right to revise any clause herein and/or to include within the ensuing contract any additional clauses that the HA feels it is in its best interests to do so)
3.6.8	G-1	Form HUD-5370-C (10/2006), <i>General Conditions for Non-Construction Contracts Section I (With or without Maintenance Work)</i>
3.6.9	G-2	Form HUD-5370-C (10/2006), <i>General Conditions for Non-Construction Contracts Section II (With Maintenance Work)</i>
3.6.10	H	Proposed Products to be Utilized
3.6.11	I	List of HA Developments

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

3.6.12	J	Task Order Form
--------	---	-----------------

4.0 PROPOSAL EVALUATION:

4.1 Evaluation Factors: The following factors will be utilized by the HACD to evaluate each proposal submittal received; award of points for each listed factor will be based upon the documentation that the proposer submits within his/her proposal submittal:

[Table No. 8]

NO	MAX POINT VALUE	FACTOR TYPE	FACTOR DESCRIPTION
1	3 points	Objective	The PROPOSED COSTS the proposer proposes to charge the HACD to provide the required work.
2	20 points	Subjective (Technical)	The proposer's DEMONSTRATED UNDERSTANDING of the REQUIREMENT;
3	10 points	Subjective (Technical)	The APPROPRIATENESS of the TECHNICAL APPROACH (including labor categories, estimated hours and skill mix) and the QUALITY of the WORK PLAN.
4	5 points	Subjective (Technical)	The proposer's TECHNICAL CAPABILITIES (in terms of personnel, equipment and materials) and the MANAGEMENT PLAN (including staffing of key positions, method of assigning work and procedures for maintaining level of service, etc.).
5	30 points	Subjective (Technical)	The proposer's DEMONSTRATED EXPERIENCE in performing similar work and the proposer's DEMONSTRATED SUCCESSFUL PAST PERFORMANCE (including meeting costs, schedules and performance requirements) of contract work substantially similar to that required by this solicitation as verified by reference checks or other means.
	100 points	100 points	Total Points (other than preference points)

4.2 Evaluation Method:

4.2.1 Initial Evaluation for Responsiveness: Each proposal received will first be evaluated for responsiveness (e.g., meets the minimum of

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

the published requirements). The HACD reserves the right to reject any proposals deemed by the HACD not minimally responsive (the HACD will notify such firms in writing of any such rejection).

- 4.2.2 Evaluation Packet for Proposals Deemed Responsive:** Internally, an evaluation packet will be prepared for each evaluator, including a proposal evaluation form.
- 4.2.3 Evaluation Committee:** The HACD anticipates that it will select a minimum of a two-person committee to evaluate each of the responsive “hard copy” proposals submitted in response to this RFP.
- 4.2.4 Evaluation:** The CO will evaluate and award points pertaining to Evaluation Factors No. 1 and 5 (the “Objective” Factors). The appointed evaluation committee, independent of the CO or any other person at the HACD, shall evaluate the responsive proposals submitted and award points pertaining to Evaluation Factors No. 2, 3, 4, (the “Subjective” Factors). Upon final completion of the proposal evaluation process, the evaluation committee will forward the completed evaluations to the CO.
- 4.2.5 Potential “Competitive Range” or “Best and Finals” Negotiations:** The HACD reserves the right to, as detailed within Section 7.2.N through Section 7.2.R of HUD Procurement Handbook 7460.8 REV 2, conduct a “Best and Finals” Negotiation, which may include oral interviews, with all firms deemed to be in the competitive range. Any firm deemed not to be in the competitive range shall be notified of such in writing by the HACD in a timely manner as possible, but in any case within no longer than 5 days after the beginning of such negotiations with the firms deemed to be in the competitive range.
- 4.2.6 Determination of Top-ranked Proposer:** The subjective points awarded by the evaluation committee will be added with the objective points to determine the final rankings. The final rankings will be forwarded to the Housing Authority Board of Commissioners (BOC) at a scheduled meeting for approval. Contract negotiations may, at the HACD's option, be conducted prior to or after the BOC approval.
 - 4.2.6.1 Minimum Evaluation Results:** To be considered to receive an award a proposer must receive a total calculated average of at least 70 points (of the 100 total possible points detailed within Section 4.1 herein).
 - 4.2.6.2 Ties:** In the case of a tie in points awarded, the award shall be decided as detailed within Section 6.12.C of HUD

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

Procurement Handbook 7460.8 REV 2, by “drawing lots or other random means of selection.”

4.2.7 Notice of Results of Evaluation: If an award is completed, all proposers will receive by e-mail a Notice of Results of Evaluation.

4.2.8 Restrictions: All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on the HACD evaluation committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on the HACD evaluation committee.

5.0 CONTRACT AWARD:

5.1 Contract Award Procedure: If a contract is awarded pursuant to this RFP, the following detailed procedures will be followed:

5.1.1 By completing, executing and submitting the Form of Proposal, Attachment A, the “proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HACD.

5.2 Contract Conditions: The following provisions are considered mandatory conditions of any contract award made by the HACD pursuant to this RFP:

5.2.1 Contract Form: The HACD will not execute a contract on the successful proposer's form--contracts will only be executed on the HACD form (please see Sample Contract, Attachments G and G-1), and by submitting a proposal the successful proposer agrees to do so (please note that the HACD reserves the right to amend this form as the HACD deems necessary).

5.2.1.1 Please note that the HACD has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as a part of this RFP.

5.2.2 Assignment of Personnel: The HACD shall retain the right to demand and receive a change in personnel assigned to the work if the HACD believes that such change is in the best interest of the HACD and the completion of the contracted work.

5.2.3 Unauthorized Sub-Contracting Prohibited: The successful proposer shall not assign any right, nor delegate any duty for the work

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the CO. Any purported assignment of interest or delegation of duty, without the prior written consent of the CO shall be void and may result in the cancellation of the contract with the HACD, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract; either as determined by the CO.

5.3 Contract Period: The HACD will award a contract for 1 year.

5.4 Licensing and Insurance Requirements: Prior to award (but not as a part of the proposal submission) the *successful proposer* will be required to provide:

- 5.4.1** An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage amount;
- 5.4.2** An original certificate evidencing General Liability coverage, naming the HACD as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the HACD as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000, together with damage to premises and fire damage of \$100,000 and medical expenses any one person of \$5,000), with a deductible of not greater than \$1,000;
- 5.4.3** An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000), with a deductible of not greater than \$1,000;
- 5.4.4** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000.
- 5.4.5** A copy of the proposer's business license allowing that entity to provide such services within the State of Illinois;
- 5.4.6** If applicable, a copy of the proposer's license issued by the State of Illinois licensing authority allowing the proposer to provide the services detailed herein.

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

5.4.7 The requested related information shall also be entered where provided for on the Profile of Firm Form (DO NOT ATTACH SUBMIT COPIES WITHIN THE PROPOSAL SUBMITTAL--we will garner the necessary certificates from the successful proposer prior to contract execution).

5.5 Right to Negotiate Final Fees: The HACD shall retain the right to negotiate the amount of fees that are paid to the successful proposer, meaning the fees proposed by the top-rated proposer may, at the HACD's options, be the basis for the beginning of negotiations. Such negotiations shall begin after the HACD has chosen a top-rated proposer. If such negotiations are not, in the opinion of the CO successfully concluded within 5 business days, the HACD shall retain the right to end such negotiations and begin negotiations with the next-rated proposer. The HACD shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e. top-rated first, then next-rated following until a successful negotiation is reached).

5.6 Contract Service Standards: All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

Index of Tables

{Table No.9}

Table	Description	Page
1	Table of Contents	2
2	RFP Information at a Glance	3
3	Service Locations	5
4	Tabbed Proposal Submittal	12
5	Locating Applicable D/B Wage Rates	16
6	HUD Maintenance Wage Rates Determination (MWRD)	16
7	Recap of Attachments	18
8	Evaluation Factors	19
9	Index of Tables	23

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services - Parking Lot Crack Filling, Seal Coating & Striping

Proposal Sheet
for Request of Proposal (RFP)
Asphalt Services - Parking Lot Crack Filling,
Seal Coating & Striping

Solicitation 20-072

Page 1 of 3

Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Taylor Street Plaza	507 E Taylor St DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
1		Total Proposed Price				
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Lewis Court Apartments	720 Lewis & 1428 Lewis DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
2		Total Proposed Price				
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Civic Apartments	350 Grant Street Sycamore				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
3		Total Proposed Price				
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Mason Court Apartments	275 N Cross Street Sycamore				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
4		Total Proposed Price				

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

Proposal Sheet
for Request of Proposal (RFP)
**Asphalt Services – Parking Lot Crack Filling,
Seal Coating & Striping**

Page 2 of 3

Solicitation 20-072

Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Mason Court	Building 101-110 Courtyard				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
6		Total Proposed Price				
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Mason Court	Building 201-216 Courtyard				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
7		Total Proposed Price				
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Mason Court	Mason Street Parking Lot				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
8		Grand Total of All Properties				\$
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Garden Estate Apartments	207 & 234 Garden Street DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
9		Grand Total of All Properties				\$
	Garden Estate Apartments	427 Haish Blvd DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
10		Grand Total of All Properties				\$

REQUEST FOR PROPOSAL (RFP) NO. 20-072
Asphalt Services – Parking Lot Crack Filling, Seal Coating & Striping

Proposal Sheet
for Request of Proposal (RFP)
Asphalt Services - Parking Lot Crack Filling,
Seal Coating & Striping

Solicitation 20-072

Page 3 of 3

Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Dresser Court Apartments	965 Dresser Court DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
11		Grand Total of All Properties				\$
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Gurler Apartments	303-313 Gurler Street DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
12		Grand Total of All Properties				\$
Site	Location	Address	U/M	Unit Price	Qty	Proposed Price
	Briarwood Apartments	3345 Resource Parkway DeKalb				
	Crack Filling		Lin.Ft			
	Seal Coating Parking Lot(s)		Sq.Ft			
	Strip all Parking Spaces		Lin.Ft			
	Patching of bad areas		Sq. Ft			
13		Grand Total of All Properties				\$

First, place within the above an amount for each noted unit to complete the required work. Second, add the unit costs to arrive at a Total Amount Quoted.

In the case of any discrepancy between the "Total Amount Quoted" and the recalculated sum of adding each of the individual quote amounts entered (e.g. the Proposer makes a mistake in adding the amount to arrive at a Total Amount Quoted), the HACD reserves the right to select the price most beneficial to the HACD.

The undersigned Proposer hereby quotes the above amounts to complete the required work (print clearly and legibly!). Further, by submitting this proposal

COMPLETED BY:

Signature

Date

Printed Name

Company Name

Address (Street; City; State; Zip)

HOUSING AUTHORITY OF THE COUNTY OF DEKALB (HACD)

F
O
R
M

O
F

P
R
O
P
O
S
A
L

REQUEST FOR PROPOSALS (RFP) NO.20-072 Asphalt Services Parking Lot
Crack Filling, Seal Coating & Striping

FORM OF PROPOSAL
(Attachment A)

(This Form must be fully completed and placed under Tab No. 1 of the "hard copy" tabbed proposal submittal.)

Instructions: Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the "hard copy" proposal submittal submitted by the proposer. Also, complete the Section 3 Statement and the Proposer's Statement as noted below:

X=ITEM INCLUDED	SUBMITTAL ITEMS <i>(Three copies of each proposal, including one with original signatures)</i>
<input type="checkbox"/>	Tab 1 Form of Proposal (Attachment A)
<input type="checkbox"/>	Tab 2 Form HUD-5369-C (Attachment B)
<input type="checkbox"/>	Tab 3 Profile of Firm Form (Attachment C)
<input type="checkbox"/>	Tab 4 Proposed Services
<input type="checkbox"/>	Tab 5 Managerial Capacity/Financial Viability, including resumes
<input type="checkbox"/>	Tab 6 Client Information
<input type="checkbox"/>	Tab 7 Equal Employment Opportunity Statement
<input type="checkbox"/>	Tab 8 Subcontractor/Joint Venture Information (Optional)
<input type="checkbox"/>	Tab 9 Section 3 Business Preference Documentation (Optional; Attachment D)
<input type="checkbox"/>	Tab 10 Other Information (Optional)

SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES___ or NO___. If "YES," pursuant to the Section 3 portion within the Conditions and Specifications, and pursuant to the documentation justifying such submitted under Tab No. 9, which priority are you claiming?

PROPOSER'S STATEMENT

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this proposal submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if the HA discovers that any information entered herein to be false, such shall entitle the HA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, and by entering and submitting the costs where provided within the noted Internet System, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HA, either in hard copy or on the noted Internet System, including an agreement to execute the attached Sample Contract form. Pursuant to all RFP Documents, this Form of Proposal, and all attachments, and pursuant to all completed Documents submitted, including these forms and all attachments, the undersigned proposes to supply the HA with the services described herein for the fee(s) entered within the areas provided within the noted Internet System pertaining to this RFP.

Signature

Date

Printed Name

Company

HOUSING AUTHORITY OF THE COUNTY OF DEKALB (HACD)

A
T
T
A
C
H
E
M
E
N
T
B

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/offers 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:

A
T
T
A
C
H
E
M
E
N
T
C

REQUEST FOR PROPOSALS (RFP) NO. 20-072
Asphalt Services- Parking Lot Crack Filling, Seal Coating & Striping

PROFILE OF FIRM FORM
(Attachment C)

(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.)

(1) Prime ____ Sub-contractor ____ (This form must be completed by and for each).

(2) Name of Firm: _____ Telephone: _____ Fax: _____

(3) Street Address, City, State, Zip: _____

(4) Please attached a brief biography/resume of the company, including the following information:
(a) Year Firm Established; (b) Year Firm Established in [JURISDICTION]; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).

(5) Identify Principals/Partners in Firm (submit under Tab No. 5 a brief professional resume for each):

NAME	TITLE	% OF OWNERSHIP

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit under Tab No. 5 a brief resume for each. (Do not duplicate any resumes required above):

NAME	TITLE

(7) Proposer Diversity Statement: You must circle all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

☐ Caucasian American (Male) _____% ☐ Public-Held Corporation _____% ☐ Government Agency _____% ☐ Non-Profit Organization _____%

Resident- (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following:

☐ Resident-Owned* _____% ☐ African American _____% ☐ **Native American _____% ☐ Hispanic American _____% ☐ Asian/Pacific American _____% ☐ Hasidic Jew _____% ☐ Asian/Indian American _____%

☐ Woman-Owned (MBE) _____% ☐ Woman-Owned (Caucasian) _____% ☐ Disabled Veteran _____% ☐ Other (Specify): _____%

WMBE Certification Number: _____

Certified by (Agency): _____

(NOTE: A CERTIFICATION/NUMBER NOT REQUIRED TO PROPOSE - ENTER IF AVAILABLE)

Signature Date Printed Name Company

HOUSING AUTHORITY OF THE COUNTY OF DEKALB

REQUEST FOR PROPOSALS (RFP) NO. 20-072
Asphalt Services- Parking Lot Crack Filling, Seal Coating & Striping

PROFILE OF FIRM FORM
(Attachment C)

(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.)

- (8) Federal Tax ID No.: _____
- (9) [APPROPRIATE JURISDICTION] Business License No.: _____
- (10) State of _____ License Type and No.: _____
- (11) Worker's Compensation Insurance Carrier: _____
Policy No.: _____ Expiration Date: _____
- (12) General Liability Insurance Carrier: _____
Policy No. _____ Expiration Date: _____
- (13) Professional Liability Insurance Carrier: _____
Policy No. _____ Expiration Date: _____
- (14) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of _____, or any local government agency within or without the State of _____? Yes ☐ No ☐
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (15) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the HA? Yes ☐ No ☐
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such proposal is genuine and not collusive and that said proposer entity has not colluded, conspired, connived or agreed, directly or indirectly, with any proposer or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other proposer, to fix overhead, profit or cost element of said proposal price, or that of any other proposer or to secure any advantage against the HA or any person interested in the proposed contract; and that all statements in said proposal are true.
- (17) Verification Statement: The undersigned proposer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HA discovers that any information entered herein is false, that shall entitle the HA to not consider nor make award or to cancel any award with the undersigned party.

Signature

Date

Printed Name

Company

HOUSING AUTHORITY OF THE COUNTY OF DEKALB

A
T
T
A
C
H
E
M
E
N
T
D

(Attachment D)

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 BUSINESS PREFERENCE
IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

NAME OF BUSINESS: _____

ADDRESS OF BUSINESS: _____

TYPE OF BUSINESS: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Attached is the following documentation as evidence of status:

For business claiming status as a Section 3 resident-owned Enterprise:

☐ Copy of resident lease ☐ Other evidence ☐ Copy of evidence of participation in a public assistance program

For the business entity as applicable:

- | | |
|--|---|
| <input type="checkbox"/> Copy of Articles of Incorporation | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate | <input type="checkbox"/> Partnership Agreement |
| <input type="checkbox"/> List of owners/stockholder and % of each | <input type="checkbox"/> Corporation Annual Report |
| <input type="checkbox"/> Latest Board minutes appointing officers | <input type="checkbox"/> Additional documentation |
| <input type="checkbox"/> Organization chart with names and titles and brief functional statement | |

For business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 business:

☐ List of subcontracted Section 3 business and subcontract amount

For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- | | |
|--|---|
| <input type="checkbox"/> List of all current full time employees | <input type="checkbox"/> List of all employees claiming Section 3 status |
| <input type="checkbox"/> PHA Residential lease (less than 3 years from date of employment) | <input type="checkbox"/> Other evidence of Section 3 status (less than 3 years from date of employment) |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- | | |
|---|--|
| <input type="checkbox"/> Current financial statement | <input type="checkbox"/> List of owned equipment |
| <input type="checkbox"/> Statement of ability to comply | <input type="checkbox"/> List of all contracts for the past 2 years with public policy |

Corporate Seal

Authorizing Name and Signature

Notary

Title

My term expires: _____

Signature

Date

Printed Name

(Attachment D)

SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES

Number Of All Contracts Proposed: _____

Name Of Company: _____

Dollar Value Of All Contracts Proposed: _____

Project: _____

To The Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation Or Proposal To Qualified Project Area Businesses.

Goal Of These Contracts For Project Area Businesses:

PROPOSED TYPE OF CONTRACT	APPROX. COST	PROPOSED TYPE OF CONTRACT	APPROX. COST

Outline The Program To Achieve These Goals For Economically And Socially Disadvantaged:

NOTE: To Complete The Affirmative Action Plan, Follow Steps Outlines In Attached Exhibit.

(INSERT THIS DOCUMENT IN PROPOSAL DOCUMENTS AND WITH PROPOSAL)

DATE: _____

Signature _____

Date _____

Printed Name _____

(Attachment D)

**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES
(con'd)**

SUGGESTED SECTION 3 PRELIMINARY WORKFORCE STATEMENT UTILIZATION OF LOWER INCOME PROJECT AREA RESIDENTS AS REGULAR, PERMANENT EMPLOYEES, TRAINEES, APPRENTICES.

COMPANY NAME: _____

ADDRESS: _____

PROJECT: _____

	PRESENT PERMANENT EMPLOYEES (At Time of Contract Signing)	SECTION 3 WORKFORCE PROJECTION (Residents)	TOTAL PROJECTED WORKFORCE INCREASE
TRAINEES			
APPRENTICES			
JOURNEYPERSONS			
LABORERS			
SUPERVISORY			
SUPERINTENDENT			
PROFESSIONAL			
CLERICAL			

NOTE: RESIDENTS ARE THOSE LOWER INCOME PROJECT AREA RESIDENTS WHO HAVE BEEN QUALIFIED AS ELIGIBLE.

Signature

Date

Printed Name

SECTION 3 BUSINESS PREFERENCE CLAUSE (Attachment D)

This contract is subject to the following conditions under Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3).

- 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 or 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 finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprise. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES

(Attachment D)

The HA has established the following priority for preference when providing contracting opportunities to Section 3 Businesses:

Priority I

Category 1a Business

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.

Priority II

Category 1b Business

Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.

Priority III

Category 2a Business

Business concerns that are 51 percent or more owned by residents of any other housing development or developments.

Priority IV

Category 2b Business

Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.

Priority V

Category 3 Business

Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistance is expended.

Priority VI

Category 4a Business

Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.

Priority VII

Category 4b Business

Business concerns that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

Eligibility for Preference

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.

(Attachment D)

HUD directs within 24 CFR 135 that the HA may make award to qualified Section 3 business concern with the highest priority ranking and with the lowest responsive proposal if that proposal is:

- (a) within the maximum total contract price established by the HA; or
- (b) not more than "X" higher than the total proposal price of the lowest responsive proposal from any responsible proposer. "X" is determined as follows:

"X" = LESSOR OF:	
When the lowest responsive proposal is less than \$100,000	10% of that proposal, or \$9,000.00
When the lowest responsive proposal is at least:	
\$100,000.00, but less than \$200,000.00	9% of that proposal, or \$16,000.00
\$200,000.00, but less than \$300,000.00	8% of that proposal, or \$21,000.00
\$300,000.00, but less than \$400,000.00	7% of that proposal, or \$24,000.00
\$400,000.00, but less than \$500,000.00	6% of that proposal, or \$25,000.00
\$500,000.00, but less than \$1,000,000.00	5% of that proposal, or \$40,000.00
\$1,000,000.00, but less than \$2,000,000.00	4% of that proposal, or \$60,000.00
\$2,000,000.00, but less than \$4,000,000.00	3% of that proposal, or \$80,000.00
\$4,000,000.00, but less than \$7,000,000.00	2% of that proposal, or \$105,000.00
\$7,000,000.00, or more	1.5% of the lowest responsive and responsible proposal with no dollar limit

A
T
T
A
C
H
E
M
E
N
T
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 or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

I
N
S
T
R
U
C
T
I
O
N
S

T
O

P
R
O
P
O
S
E
R
S

Instructions To Proposers & Contractors

REQUEST FOR PROPOSALS (RFP) NO.17-048 Asphalt Services- Crack Filling, Seal Coating & Striping

Table of Contents

Section	Description	Page
1.0	General Conditions	2
1.1	Applicability	2
1.2	Definitions	2
2.0	Conditions To Propose	4
2.1	Pre-qualification of Proposers	4
2.2	RFP Forms, Document Specifications and Drawings	4
2.3	Proposal Preparation, Submission and Receipt by the HA	4
2.4	Exceptions to Specifications	6
2.5	Lump Sum Cost Breakdown (LSCB)	6
3.0	Proposal Evaluation	8
3.1	Proposal Opening Results	8
3.2	Award of Proposal(s)	8
3.3	Rejection of Proposals	8
3.4	Cancellation of Award	8
3.5	Mistake in Proposal Submitted	9
3.6	Irregular Proposal Submitted	9
3.7	Disqualification of Proposers	9
3.8	Burden of Proof	10
4.0	Right To Protest	11
4.1	Rights	11
4.2	Administrative Powers	11
4.3	Procedure to Protest	11
5.0	Disputed Billings (Charges)	14
5.1	Procedures	14
6.0	Additional Considerations	15
6.1	Right of Joinder Pursuant to NRS 332.195	15
6.2	Non-escalation	15
6.3	Funding Restrictions and Order Quantities	15
6.4	Required Permits	15
6.5	Taxes	15
6.6	Government Standards	15
6.7	Freight on Bill and Delivery	16
6.8	Communication	16
6.9	Work on HA Property	16
6.10	Estimated Quantities	16
6.11	Warranty	16
6.12	Official, Agent and Employees of the HA Not Personally Liable	17
6.13	Subcontractors	17
6.14	Salaries and Expenses Relating to the Successful Proposer's Employees	17
6.15	Attorney's Fees	17
6.16	Independent Contractor	17
6.17	Severability	17
6.18	Waiver of Breach	17
6.19	Time of the Essence	18
6.20	Limitation of Liability	18
6.21	Indemnity	18
6.22	Lobbying Certification	19
6.23	24 CFR 85.36(i), Procurement	20
6.24	Additional Federally Required Orders/Directives	24

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

1.0 GENERAL CONDITIONS:

- 1.1 Applicability:** If referred to within the text of such, these ITPC shall be applicable to all Requests For Proposals (RFP) solicitations that the Housing Authority of the County of DeKalb (HA) conducts and shall be applicable to any contract that the HA awards to or signs with any firm, agency or individual pursuant to that RFP. A copy of these ITPC shall be made available to any actual or prospective proposer, or contractor who does business with or intends to do business with the HA.
- 1.1.1** Unless otherwise specified within the RFP or contract documents, in the event that any provision in any document listed herein conflicts with any provision within these ITPC, the provision in the RFP or contract document shall govern. Further, in the case of any attached HUD forms (more specifically: HUD-5369-C (8/93); HUD-5369-B (8/93); and HUD-5370-C (10/2006), Section I and/or Section II), the information within such HUD form(s) shall govern any other information issued, especially that issued within any HA-created forms that are issued as a part of this solicitation.
- 1.2 Definitions** (pertaining to all RFP documents issued by the HA pertaining to this RFP, including the attachments and the ensuing contract):
- 1.2.1** "Contracting Officer" when named within an RFP document shall refer to either the ED or the person he/she has delegated such responsibilities to.
- 1.2.2** "Contract" refers to the fully executed written agreement that ensues from the RFP. Whereas all RFP documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within the RFP document, such is referring to both the RFP documents and the ensuing contract document.
- 1.2.3** "Contractor" and the term "successful proposer" may be used interchangeably.
- 1.2.4** "Days" unless otherwise directed, shall refer to calendar days.
- 1.2.6** "ED" is the HA Executive Director.
- 1.2.8** "HA" is the Housing Authority of the County of DeKalb. Unless otherwise defined herein or within the ensuing contract, whenever the term "the HA" is used without clearly designating a responsible HA staff person, the proposer(s) shall assume that responsibility for that item rests with the CO.
- 1.2.9** "HUD" is the United States Department of Housing and Urban Development. HUD is the Federal agency that the HA receives some funding from; however, pertaining to this RFP, correspondences, including proposal submittals, received from each proposer must exhaust all provisions contained herein prior to contacting HUD (i.e. in the case of a protest).
- 1.2.10** "Herein" shall refer to all documents issued pursuant to the noted RFP, including the RFP documents and the attachments.
- 1.2.11** "Offer" is the proposal submittal referred to within the following Section 1.2.14 that the proposer delivers to the HA in response to the RFP.
- 1.2.12** "Offeror" or "Offerors" are the proposer or proposers.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

- 1.2.13** **"Parties"** - When "the parties," "both parties" or "either party" is stated within the RFP documents or the contract, such refers to the HA and the successful proposer(s).
- 1.2.14** **"Proposal" and/or "Proposal Submittal"** is the "hard copy" document that the proposer is required to, as detailed within the RFP document, deliver to the HA.
- 1.2.15** **"Protestant"** is a prospective proposer or proposer who feels that he/she has been treated inequitably by the HA and wishes the HA to correct the inequitable condition or situation. To be eligible to file a protest with the HA pertaining to an RFP or contract, the protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e. registered and received the RFP documents).
- 1.2.16** **"Prospective Proposer" or "Proposer"** - A prospective proposer is a firm or individual who has been notified of the RFP solicitation and/or who has requested and/or received the RFP documents and is considering responding with a proposal; a proposer is a firm or individual who has submitted a proposal in response to the RFP. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFP--meaning, certain notices (such as the Notice of Results of Evaluation) are typically only delivered to proposers and not to all prospective proposers.
- 1.2.17** **"Request For Proposals" (RFP)** is the competitive proposal process allowed by HUD, especially as defined within Chapter 7 of HUD Procurement Handbook 7460.8 REV 2.
- 1.2.18** **"RFP Document(s)"** - Whether stated in the singular or the plural, such refers to the body of documents, including attachments and the information posted on the nahro.economicengine.com Internet System (hereinafter, the "noted Internet System" or the "System"), that the HA makes available to all prospective proposers wherein is detailed the HA's requirements.
- 1.2.19** **"Solicitation" or "Competitive Solicitation"** is the RFP process detailed herein.

2.0 CONDITIONS TO PROPOSE:

- 2.1 Pre-Qualification of Proposers:** Prospective proposers will not be required to pre-qualify in order to submit a proposal. However, all proposers will be required to submit adequate information showing that the proposer is qualified to perform the required work (i.e. Profile of Firm Form and required resumes). Failure by the prospective proposer to provide the requested information may, at the HA's discretion, eliminate that proposer from consideration, provided that all proposers were required to submit the same information (in the case of a successful proposer(s), these requirements shall also apply in the context of the successful proposer or proposers).
- 2.2 RFP Forms, Documents, Specifications and Drawings:**

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 2.2.1 It shall be each prospective proposer's responsibility to, prior to submitting a proposal in response to the RFP, examine carefully and, as may be required, properly complete and submit all documents issued pursuant to this RFP.
- 2.2.2 Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.
- 2.2.3 The HA shall reserve the right to, prior to award, revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued; such notice shall be delivered in writing to each prospective and/or actual proposer. Such changes that are issued before the deadline for receipt of proposals shall be binding upon all prospective proposers. Such changes that are issued after the receipt of proposals, but prior to award shall be binding upon all parties that have submitted proposals; however, such parties shall be allowed to reject such changes by, within 5 days of receipt of such written notice, withdrawing his/her proposal. Such withdrawal must be delivered, in writing, to the CO within the 5-day deadline period.
- 2.3 **Proposal Preparation, Submission and Receipt by the HA:**
- 2.3.1 **Required Forms:** All required forms furnished by the HA as a part of the RFP document issued shall, as instructed, be fully completed and submitted by the proposer. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the proposer must "edit" the form back to its originally form (for example, signature lines must appear on the page the line was originally intended to be on).
- 2.3.2 **Manner of Submission:** The proposal submittal shall be submitted in the manner detailed within the RFP document. Failure to submit the proposal in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that proposal, and may, at the discretion of the CO, eliminate that proposer from consideration for award.
- 2.3.3 **Time for Receiving Proposals:** Proposals received prior to the time set as the deadline for the receipt by the HA of the proposal submittal shall be securely kept, unopened, by the HA. The CO, whose duty it is to open such proposals, will decide when the specified time has arrived. No proposal received after the designated deadline shall be considered, except as detailed within Section 6 of Form HUD-5369-B (8/93), *Late Submissions, Modifications and Withdrawal of Offers*.
- 2.3.3.1 Proposers are cautioned that any proposal submittal that may be time-stamped as being received by the HA after the exact time set as the deadline for the receiving of proposals shall be returned unopened to the proposer. Any such proposals inadvertently opened shall not be considered, but shall be ruled to be invalid. No responsibility will attach to the HA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and identified.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 2.3.4 No Public Opening of Proposals:** Pursuant to the competitive proposals or RFP process, proposals are not publicly opened, but are held secure until the submittal deadline has passed. The proposals are then opened in private by the CO (or his/her designee) and are, pursuant to the evaluation plan, examined for minimal responsiveness (i.e. minimum compliance with the requirements of the RFP). Persons other than HA staff involved in this process are not allowed to be present during the opening, nor may they inspect the proposals until after award has been completed.
- 2.3.5 Withdrawal of Proposals:** Proposals may be withdrawn as detailed within Section 6(h) of Form HUD-5369-B (8/93), *Late Submissions, Modifications and Withdrawal of Offers*. Negligence on the part of the proposer in preparing his/her proposal confers no right of withdrawal or modification of his/her proposal after such proposal has been received and opened.
- 2.3.6 Conflicting Conditions:** Any provisions detailed within any of the RFP documents which may be in conflict or inconsistent with any of the paragraphs in any of the other RFP documents, including attachments, shall be void to the extent of any such conflict or inconsistency. Further, as stated within Section 1.1.1 of this ITP, unless otherwise specified within the RFP or contract documents, in the event that any provision in any document listed herein conflicts with any provision within this ITP, the provision in the RFP or contract document shall govern.
- 2.3.7 Interpretations:** No official oral interpretation can be made to any proposer as to the meaning of any instruction, condition, specifications drawing (if any), or any other document issued pertaining to this RFP. Every request for an official interpretation shall be made by the prospective proposer, in writing, pursuant to the schedule set within the RFP document issued and as directed by the HA. Official interpretations will be issued in the form of addenda, which will be delivered to each proposer; but it shall be the prospective proposer's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the RFP documents and the proposed contract with the successful proposer, and all proposers shall be bound by such addenda, whether or not received by the prospective or successful proposer(s).
- 2.4 Exceptions to Specifications:**
- 2.4.1** A proposer may take exception to any of the proposal documents or any part of the information contained therein, by submitting, in writing to the CO, at least 10 days prior to the proposal deadline, a complete and specific explanation as to what he/she is taking exception to. Proposed alternate documents or information must also be included. A response by the HA will be issued in writing within 5 days of receipt of such exception request. The HA reserves the right to agree with the prospective proposer and issue a revision to the applicable RFP requirements, or may reject the prospective proposer's request.
- 2.4.2** When taking exception, prospective proposers must propose services that meet the requirements of the RFP documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-proposal conference (if scheduled). All verbal instructions issued by the HA officers not already listed within the RFP documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.
- 2.5 Lump Sum Cost Breakdown (LSCB):**

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

2.5.1 The HA reserves the right to, at any time, request and receive from any or all proposers a LSCB of any or all of the costs proposed. The proposal documents constitute an outline of the work to be completed by the proposer. These documents are intended to include all major items, and the lump sum cost breakdown computed therefrom will be the maximum compensation for all work and materials whatsoever furnished by the proposer in order to comply with the proposal documents in their present form, whether or not indicated in the approximate quantities or pertaining to the items of work as listed.

2.5.1.1 The purpose of this LSCB will serve the HA in two distinct areas:

2.5.1.1.1 **Prior to award of proposals:** The HA may request a LSCB for any or all items reflected within the RFP document as “lump sum” for the purpose of determining an unbalanced cost proposal. The CO, using acceptable methods dictated by the industry, shall conduct the analysis.

2.5.1.1.2 **After award:** The HA may request a LSCB for any or all items reflected within the RFP document as “lump sum” for the purpose of making partial payments to the successful proposer.

2.5.1.1.3 Under no circumstances, may any cost item reflected as “lump sum” be increased/decreased as a result of the LSCB analysis.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

3.0 PROPOSAL EVALUATION:

- 3.1 Proposal Opening Results:** It is understood by all proposers/prospective proposers that the proposals received are not publicly opened and the results will typically not be a matter of public record until the HA has concluded all evaluations, has chosen a final top-rated proposer, has completed the award and is ready to issue such results. When the HA issues such notice, the HA will inform all proposers as to each proposer's placement as a result of the evaluation (i.e. 1st, 2nd, 3rd, etc.), the total points each proposer was awarded as a result of the evaluation and the proposed costs submitted by each proposer.
- 3.1.1** All proposal documents submitted by the proposers are not necessarily a matter of public record and as a matter of normal course, the proposals submitted by each proposer will not, until after award has been completed, be available to be viewed by any interested parties except as approved by the HA Legal Counsel (i.e. a proposer will not, prior to completion of award, be allowed to challenge an apparent top-rated proposer by inspecting the proposal that the apparent top-rated proposer submitted). The HA shall, however, upon request, verify that the proposal documents submitted are/were acceptable.
- 3.2 Award of Proposal(s):** The successful proposer shall be determined by the top-rated responsive and responsible proposer as determined by the evaluation process detailed within the RFP document issued, provided his/her proposal is reasonable, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of the HA, to the best interests of the HA to accept the proposal. All proposers will be notified in a timely manner of the results of the evaluation after award has been completed.
- 3.3 Rejection of Proposals:**
- 3.3.1** The HA reserves the right to, at any time during the proposal process, reject any or all proposals received. In the case of rejection of all proposals, the HA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of the HA, the best interest of the HA will be promoted.
- 3.3.2** Prospective proposers acknowledge by downloading and receiving the RFP documents and/or by submitting a proposal that the submission of a proposal to the HA is not a right by which to be awarded that proposal, but merely an offer by the prospective proposer to perform the requirements of the RFP documents in the event the HA decides to consider an award to that proposer.
- 3.4 Cancellation of Award:** The HA reserves the right to, without any liability, cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- 3.5 Mistake in Proposal Submitted:**
- 3.5.1** A request for withdrawal of a proposal due to a purported error need not be considered by the HA unless the same is filed in writing by the proposer within 48 hours after the proposal deadline (proposers may of their own volition withdraw a proposal prior to the submittal deadline). Any such request shall contain a full

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- explanation of any purported error and shall, if requested by the HA, be supported by the original calculations on which the proposal was computed, together with a certification and notarization thereon that such computation is the original and prepared by the proposer or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as the HA retains the right to accept or reject any proposal withdrawal for a mistake.
- 3.5.2 Unless otherwise prohibited within the RFP documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at the HA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to the CO, for his/her review. This mistake must be corrected before the issuance of contract documents.
- 3.6 **Irregular Proposal Submittal:** A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at the HA's discretion, be cause for rejection:
- 3.6.1 If the forms furnished by the HA are not used or are altered or if the proposed costs are not submitted as required and where provided (especially within the noted Internet System).
- 3.6.2 If all requested completed attachments do not accompany the proposal submitted.
- 3.6.3 If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the proposer submitting the same a competitive advantage over other proposers.
- 3.6.4 If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.
- 3.6.5 If the individual Pricing Items submitted by a specific proposer are unbalanced in the sense that the listed price of any cost item departs by more than 25% from the HA's cost estimate for that item.
- 3.7 **Disqualification of Proposers:** Any one or more of the following shall be considered as sufficient for the disqualification of a proposer and the rejection of his/her proposal:
- 3.7.1 Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as bidders or proposers for any future work of the HA until such participant shall have been reinstated as a qualified proposer or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
- 3.7.2 More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s), unless such was specifically allowed by the HA within the proposal documents issued, including by addendum.
- 3.7.3 Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 3.7.4 Documented unsatisfactory performance record as shown by past work for the HA or with any other local, State or Federal agency, judged from the standpoint of workmanship and progress.
 - 3.7.5 Incomplete work, which in the judgment of the HA, might hinder or prevent prompt completion of additional work, if awarded.
 - 3.7.6 Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
 - 3.7.7 Failure to comply with any qualification requirement of the HA.
 - 3.7.8 Failure to list, if required, all subcontractors (if subcontractors are allowed by the HA) who will be employed by the successful proposer(s) to complete the work of the proposed contract.
 - 3.7.9 As required by the RFP documents, failure of the successful proposer to be properly licensed by the Trade and/or the State of Illinois and/or to be insured by a general liability and/or worker's compensation policy.
 - 3.7.10 Any legal reason to be determined, in good faith, to be in the best interests of the HA.
- 3.8 **Burden of Proof:** If requested by the HA, it shall be the responsibility of the proposer(s) to furnish the HA with sufficient data or physical samples, within a specified time, so that the HA may determine if the goods or services offered conform to the Specifications.
- 4.0 **Right to Protest:**
- 4.1 **Rights:** Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.
 - 4.1.1 An alleged aggrieved "protestant" is a prospective or actual proposer who feels that he/she has been treated inequitably by the HA and wishes the HA to correct the alleged inequitable condition or situation. To be eligible to file a protest with the HA pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e. registered and received the RFP documents) when the alleged situation occurred. The HA has no obligation to consider a protest filed by any party that does not meet these criteria.
 - 4.2 **Administrative Powers:** It is totally within the administrative powers of the ED to grant or deny any requests for administrative appeal. If, in the opinion of the ED, the alleged aggrieved protestant merits an administrative review, the ED shall direct that alleged aggrieved protestant to submit additional data.
 - 4.3 **Procedure to Protest:** An alleged aggrieved protestant shall comply with the following protest procedures, and failure to comply in the manner prescribed shall automatically relieve the HA from accepting or considering that protest:

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

- 4.3.1 The alleged aggrieved protestant must file, in writing, to the CO the exact reason for the protest, attaching any supportive data. The protestant must state within the written protest document specifically (not by inference) what action by the HA or condition is being protested as inequitable, making, where appropriate specific reference to the RFP documents issued. The protest document must also state the corrective action requested. Failure by the alleged aggrieved protestant to fully submit such information shall relieve the HA from any responsibility to consider the protest and take any corrective action.
- 4.3.2 The written instrument containing the reason for the protest must be received by the CO within 10 days after the occurrence of any of the following:
- 4.3.2.1 the deadline for receiving proposals;
 - 4.3.2.2 receipt of notification of the results of the evaluation or the award;
or
 - 4.3.2.3 the alleged aggrieved protestant knows or should have known the facts.
- 4.3.3 In any case, protests shall be filed no more than 10 days after any of the above (unless the occurrence being protested occurred in its entirety after the proposal deadline). Protests received after these dates shall not be considered.
- 4.3.4 The CO shall review the written protest and supportive data, if any. He/she shall, within 10 days after receipt of the written protest, issue a written opinion and decision. This document shall state the reasons for the action taken as well as inform the alleged aggrieved protestant of the right of further administrative review. A copy of this written opinion and decision shall be forwarded to the ED.
- 4.3.5 **Administrative Appeal:** If the alleged aggrieved protestant does not agree with the written opinion and decision issued by the CO, the alleged aggrieved protestant may, after receipt of the written opinion and decision issued by the CO request an administrative appeal hearing be granted (such request must be delivered in writing to the CO within 5 days of receipt of the written opinion and decision; failure to do so within such 5 days shall relive the HA of any responsibility to consider such request). The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestant to comply shall automatically relieve the HA from accepting or acting on that request for administrative hearing:
- 4.3.5.1 The alleged aggrieved protestant must file, in writing, his/her request for an administrative hearing, to the ED, within 5 days of receipt of the written opinion and decision and failure to do so within such 5 days shall relive the HA of any responsibility to consider such request.
 - 4.3.5.2 The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 4.3.5.3 It shall be within the administrative powers of the ED to, after review of the request submitted, grant or deny any request for administrative appeal.
 - 4.3.5.4 If the ED, after complete review of the alleged aggrieved protestant's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the alleged aggrieved protestant. A decision rendered under this paragraph shall be made within 10 days after the receipt of the alleged aggrieved protestant's request for an administrative hearing. This decision shall be final without further administrative recourse.
 - 4.3.5.5 If the ED, after review of the alleged aggrieved protestant's written request, decides that the request merits further consideration, he/she shall forward the protestant's written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to the HA Legal Counsel for consideration. The HA Legal Counsel shall issue to the alleged aggrieved protestant a decision, in writing, within 10 days of his/her receipt of such documents.
 - 4.3.5.5 Such written decision delivered to the alleged aggrieved protestant shall exhaust the HA internal protest and administrative appeal process available to the alleged aggrieved protestant.

5.0 Disputed Billings (Charges):

- 5.1 **Procedures:** In addition to the procedures detailed within Clause No. 7 of Attachment G-1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the HA disputes any portion of its billing(s), the HA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:
 - 5.1.1 The HA's representative shall, within 10 days after the HA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.
 - 5.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the CO and the contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.
 - 5.1.3 If the CO and the contractor's representative are unable to resolve the dispute through such discussion within 10 days, the HA shall, within 10 days thereafter, either:
 - 5.1.3.1 pay the disputed charges and reserve the right to submit the matter to the Small Claims Court Annexed Arbitration program if the disputed amount does not exceed \$40,000.00 or to the appropriate District Court in the State of Illinois;

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 5.1.3.2 not pay the disputed charge and submit the matter to the Small Claims Court Annexed Arbitration program if the disputed amount does not exceed \$40,000.00 or to the appropriate District Court in the State of Illinois;
 - 5.1.3.3 not pay the disputed charge and allow the Contractor to submit the matter either to the Small Claims Court Annexed Arbitration program if the disputed amount does not exceed \$40,000.00 or to the appropriate District Court in the State of Illinois.
 - 5.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the HA, the HA shall pay the HA's receipt of the decision. If the decision is in favor of the HA, the contractor will either:
 - 5.1.4.1 clear the amount which is ordered from the HA account; or
 - 5.1.4.2 repay to the HA the amount ordered.
- Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

6.0 Additional Considerations:**6.1 Right of Joinder Pursuant to NRS 332.195:**

- 6.1.1 Any political subdivision within the State of Illinois may be granted the privilege of joining the awarded contract, only at the option of the successful proposer. If the successful proposer so grants such a privilege, the terms and conditions of the RFP documents, including the ensuing contract, may be passed on to the joining political subdivision by the successful proposer.
- 6.1.2 The successful proposer shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the successful proposer allows another political subdivision to join the HA contract, it is expressly understood that the HA shall in no way be liable for the joining political subdivision obligations to the successful proposer in any manner whatsoever.

6.2 Non-Escalation: Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.**6.3 Funding Restrictions and Order Quantities:** The HA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the HA, if:

- 6.3.1 funding is not available;
- 6.3.2 legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
- 6.3.3 the HA's requirements in good faith change after award of the contract.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 6.4 Required Permits:** Unless otherwise stated in the RFP documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either the HA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and any costs submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits.
- 6.5 Taxes:** All persons doing business with the HA are hereby made aware that the HA is exempt from paying Illinois State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 6.6 Government Standards:** It is the responsibility of the prospective proposer to ensure that all items and services proposed conform to all local, State and Federal laws concerning safety (OSHA and NOSHA) and environmental control (EPA and DeKalb County Health Department Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful proposer shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful proposer for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 6.7 Freight on Bill and Delivery:** All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the locations(s) specified within the RFP documents or within the contract.
- 6.7.1** The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful proposer. Upon default, the successful proposer agrees that the HA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.
- 6.8 Communication:** If during the period of the contract, it is necessary that the HA place toll or long distance telephone calls or telegrams in connection therewith (for complaints, adjustments, shortages, failure to deliver, etc.), it is understood that the successful proposer will bear the charge or expense for all such calls and/or telegrams.
- 6.9 Work on HA Property:** If the successful proposer's work under the contract involves operations by the successful proposer on HA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the HA's negligence, shall indemnify the HA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subcontractors.
- 6.10 Estimated Quantities:** Unless otherwise stated within the RFP documents, the quantities reflected within the RFP documents, to the best of the HA's knowledge, reflect projected consumption data. These quantities are not meant to infer or imply actual consumption figures or quantities that will be purchased by the HA under the finalized contract; but, pursuant to all RFP documents, these quantities will be used as calculation figures to determine the successful proposer.
- 6.11 Warranty:**

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 6.11.1** The services provided under the contract shall conform to all information contained within the RFP documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.
- 6.11.1** The liability of the successful proposer to the HA (except as to title) arising out of the furnishing of the services or of its use under the terms of the contract shall not exceed the correcting of the defect(s) in the services as provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose.
- 6.12 Official, Agent and Employees of the HA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the HA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 6.13 Subcontractors:** Unless otherwise stated within the RFP documents, the successful proposer may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the CO.
- 6.14 Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 6.15 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including attorneys' fees, in a reasonable amount, to be determined by the court. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 6.16 Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the successful proposer is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 6.17 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 6.18 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations,

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.

6.19 Time of the Essence: Time is of the essence under this agreement as to each provision in which time of performance is a factor.

6.20 Limitation of Liability: In no event shall the HA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.

6.21 Indemnity:

6.21.1 The successful proposer shall protect, indemnify and hold the HA, its officers, employees, agents, consulting engineers and other retained consultants harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character which the HA, its officers, employees, agents, consulting engineers or other retained consultants may suffer, or which may be sought against, recovered from or obtainable against the HA, its officers, employees, agents, consulting engineers or other retained consultants such as:

6.21.1.1 as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act on the part of the successful proposer, its subcontractors or agents, or anyone directly or indirectly employed by any subcontractor or agent, in the fulfillment or performance of the terms, conditions or covenants that are contained in this contract or agreement, regardless of whether or not the occurrence which gave rise to such claim, damage, loss, suit, action, judgment or expense was caused, in part, by any party indemnified hereunder; or

6.21.1.2 as a result of, or by reason of, or arising out of, or on account of, or in consequence of, any neglect in safeguarding the work; or

6.21.1.3 through the use of unacceptable materials or products, or both, which may be defective or manufactured, designed or installed so as to give rise to a claim; or

6.21.1.4 because of any claim or amount recovered under the "Nevada Industrial Insurance Act", or any other law, ordinance, or decree, which claim or recovery arose out of or is attributable to any act or failure to act on the part of the successful proposer in the fulfillment or performance of the terms, conditions and covenants that are contained in this contract. Any money due by the successful proposer under and by virtue of this contract which is considered necessary by the HA for such purpose, may be retained by the HA for its protection; or in case no money is due, its surety may be held until all such claims, damages, losses, suits, actions, decrees, judgments, attorney's fees and court costs and other expenses of any kind or character as aforesaid shall have been settled and suitable evidence to that effect furnished to the HA provided, however, that money due the successful proposer will not be withheld when the successful proposer produces satisfactory evidence that it is adequately protected by public liability and property damage insurance, if required.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

- 6.21.2** In this connection, it is expressly agreed that the successful proposer shall, at its own expense, defend the HA, its officers, employees, agents, consulting engineers and other retained consultants, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the successful proposer has indemnified the HA, its officers, employees, agents, consulting engineers and other retained consultants against, and if the successful proposer shall fail to do so, the HA shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the successful proposer including attorney's fees and court costs; provided, however, that if the forum in which such claim suit or action is heard determines that the occurrence that gave rise to the same was caused, in whole or in part, by any party who is indemnified hereunder, the HA shall reimburse the successful proposer for all, or the indemnified party's proportionate share, as the case may be, of the costs of such defense.
- 6.21.2** Reimbursement to the successful proposer by the HA, in whole or in part, for the costs of protecting traffic shall not serve to relieve the successful proposer of its responsibility as set forth in the RFP documents.
- 6.21.3** The successful proposer guarantees the payment of all just claims for materials, supplies and labor, and all other just claims against it or any subcontractor, in connection with the contract.
- 6.22 Lobbying Certification:** By proposing to do business with the HA or by doing business with the HA, each proposer certifies the following:
- 6.22.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, 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 an 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 any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- 6.22.2** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of an 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.
- 6.22.3** The successful proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- 6.22.4** This clause is a material representation of fact upon which reliance was placed when the award was made or entered into. The signing of a contract or

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

- 6.23 24 CFR 85.36(i), *Procurement*:** Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the HA and the contractor each agree to comply with the following provisions and agree that any contract that ensues as a result of this RFP will include the following clauses, whether actually inserted or by reference:

- 6.23.1 Remedies for Contractor Breach:** Pertaining to contract-related issues, it is the responsibility of both the HA and the contractor to communicate with each other in as clear and complete a manner as possible. If at any time during the term of this contract the HA or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the HA has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the HA shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the HA shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

- 6.23.1.1** If the contractor is in material breach of the contract, the HA may promptly invoke the termination clause detailed within Section No. 3 of Attachment G-1, form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

- 6.23.1.2** Prior to termination, the HA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The HA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HA's alleged incorrect action(s).

- 6.23.1.3** After termination, if the contractor does not agree with the HA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HA's position on the issue. The written protest must detail

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

all pertinent information pertaining to the dispute, including justification detailing the HA's alleged incorrect action(s).

- 6.23.1.4** The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.
- 6.23.2 Termination For Cause and Convenience:** As detailed within Clause No. 3 of Attachment G-1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(Within or without Maintenance Work)*, attached hereto.
- 6.23.3 Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 6.23.4 Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 6.23.5 Davis-Bacon-Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 6.23.6 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 6.23.7 Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 6.23.8 Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 6.23.9 Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the HA has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
- 6.23.9.1** Except as provided elsewhere in this clause, the HA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.

- 6.23.9.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 6.23.9.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the HA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the HA.
- 6.23.9.4** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the HA a license of the same scope as identified in the preceding paragraph.
- 6.23.9.5** The HA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the HA may either return the data to the contractor, or cancel or ignore the markings.
- 6.23.9.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 6.23.9.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the HA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

-
- 6.23.9.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the HA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 6.23.10** **Clean Air Act:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- 6.23.13** **Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- 6.24** **Additional Federally Required Orders/Directives:** Both parties agree that they will comply with the following laws and directives that the HA has received from HUD and that these same clauses will be a part of any contract that ensues as a result of this RFP:
- 6.24.1** Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 6.24.2** Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The HA hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).
- 6.24.3** Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the HA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.

REQUEST FOR PROPOSALS (RFP) NO. 20-072 Asphalt Services Crack Filling, Seal Coating & Striping

- 6.24.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 6.24.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 6.24.6 HUD Information Bulletin 909-23 which is the following:
 - 6.24.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;
 - 6.24.6.2 Clean Air and Water Certification; and
 - 6.24.6.3 Energy Policy and Conversation Act.
- 6.24.7 The mentioned herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party.

S
A
M
P
L
E

C
O
N
T
R
A
C
T

RFP No.20-072 Asphalt Services- Parking Lot Crack Filling,
Seal Coating & Striping
(Attachment G, Sample Contract Form)

HA CONTRACT NO.

**CONTRACT BETWEEN
THE HOUSING AUTHORITY OF THE COUNTY OF DEKLAB
AND
[THE CONTRACTOR]**

INTRODUCTION

This contract by and between the Housing Authority of the _____ (hereinafter "HA"), and _____, (hereinafter "the Contractor") is hereby entered into this ____ day of _____, 2020.

Services pursuant to this contract shall begin on the ____ day of _____, 2020, and shall end on the ____ day of _____, 2020, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. Unless otherwise detailed herein, all references to "days" shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term "herein" is referred to, such refers to this contract form, the appendices and all listed attachments.

1.0 Definitions:

- 1.1 Housing Authority (HA):** Any reference herein or within any Appendix to the "Housing Authority" shall be interpreted to mean the same as the HA.
- 1.2 Contracting Officer (CO):** The HA Contracting Officer, typically the HA Executive Director, but may be another person delegated such authority by the ED.
- 1.3 Executive Director (ED):** The HA Executive Director.
- 1.4 Request For Proposals (RFP):** A competitive solicitation process conducted by the HA wherein award was completed to the top-rated responsive and responsible proposer.

2.0 Services and Payment:

- 2.1 Scope of Services:** The services provided pursuant to this contract generally consist of those services for the HA as described herein and within the Appendices. Said services shall be provided on the dates and times determined by the HA at the designated HA community and facilities. In addition, the HA shall retain the right to implement and/or enforce any item issued as a part of RFP No P10-002.
- 2.2 Provisions of any and all Work (Task Orders):** The Contractor shall not begin any additional work (other than that already detailed herein) without the receipt of a completed Contract Task Order Form (CTOF) from the authorized HA representative. This shall be completed as follows:
- 2.3 Cost/Value of Services:**
 - 2.3.1 Contract Value:** The current total Not-To-Exceed (NTE) value of this contract is:

\$50,000

The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order.

- 2.4 Renewal Options:** This contract is initially executed for the period of 1 year with the option, at the HA's discretion, of 4 additional one-year option periods, for a maximum total of 5 years.
- 2.5 Time Performance:** The Contractor will complete each assigned task as detailed within the executed HA Task Order.
- 2.6 Billing Method:**
- 2.6.1** To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:
Housing Authority of the County of DeKalb
Attn: Randy Bourdages
310 N 6th Street
DeKalb IL 60115
- 2.6.2** At a minimum, the invoice shall detail the following information:
- 2.6.2.1** Unique invoice number;
- 2.6.2.2** Contractor's name, address and telephone number;
- 2.6.2.3** Date of invoice and/or billing period;
- 2.6.2.4** Applicable Contract No. ____;
- 2.6.2.5** Applicable Purchase Order No.;
- 2.6.2.6** Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report);
- 2.6.2.7** Task Order, approved by the HA Executive Director; and
- 2.6.2.8** Total dollar amount being billed.
- 2.6.3** The HA will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be

paid unless and/or until the Contractor complies with the applicable provisions of this contract.

3.0 HA's Obligations: Pursuant to this contract, the HA agrees to provide the specific services detailed herein and also shall be responsible for the following:

3.1 The HA agrees to not provide to the Contractor any Task Order assigning work to the Contractor without the prior written approval of the ED.

4.0 Contractor's Obligations: Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:

4.1 Supervision and Oversight: The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel that are assigned to the HA properties pursuant to this contract.

4.2 Qualified Personnel: The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its proposal or as provided by the Contractor during the Contractor's normal conduct of business.

4.3 Compliance with Federal and State Laws: All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

4.4 Insurance Requirements:

4.4.1 The complete indemnity requirements are detailed within Section 11.19 herein.

4.4.2 In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:

4.4.2.1 Policy of General Liability Insurance, \$1,000,000 per occurrence, \$5,000,000 aggregate together with damage to premises and fire damage of \$50,000 and medical expenses for any one person of \$5,000 with a deductible not greater than \$1,000. The HA shall be named upon the certificate issued as an "additional insured," together with providing a copy of the corresponding endorsement evidencing the same.

4.4.2.2 Policy of Professional Liability Insurance or Errors & Omissions coverage, minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$5,000,000 with a deductible of not greater than \$1,000;

- 4.4.2.3 Automobile Liability coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this contract, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000 with a deductible not greater than \$1,000.
- 4.4.2.4 Worker's compensation coverage evidencing carrier and coverage amount.
- 4.4.2.5 The Contractor shall provide to the HA with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the HA as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof.
- 4.4.2.6 Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the HA:

**Housing Authority of the County of DeKalb
310 N 6th Street
DeKalb IL 60115**

- 4.5 **Licensing:** The Contractor shall also provide to the HA a copy of the required [NAME OF APPLICABLE JURISDICTION] Business License. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.
- 4.6 **Financial Viability and Regulatory Compliance:**
 - 4.6.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.
 - 4.6.2 The Contractor agrees to promptly disclose to the HA any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the HA in writing within 5 days of such notification received will constitute a material breach of this contract.
 - 4.6.3 The Contractor further agrees to promptly disclose to the HA any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more than 50% of its

ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.

4.6.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to HA within the time periods required herein.

5.0 Modification: This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.

6.0 Severability: The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.

7.0 Applicable Laws:

7.1 Compliance with Federal and State Laws: All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

7.2 Jurisdiction of Law: The laws of the State of Illinois shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that [COUNTY], [STATE] is the appropriate forum for any action relating to this contract. Should any party hereto retain counsel for the purpose of initiating litigation or arbitration to enforce, prevent the breach of any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such prevailing party. This contract may be signed in counterparts.

8.0 Notices, Invoices and Reports:

8.1 All notices, reports and/or invoices submitted to the HA by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the HA:

See Properties List

or if appropriate, faxed to: **815-758-4190**

8.2 All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

Contracting Officer

or, if appropriate, shall be faxed to: **815-758-4190**

9.0 Disputed Billings (Charges):

9.1 Procedures: In addition to the procedures detailed within Clause No. 7 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the HA disputes any portion of its billing(s), the HA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

9.1.1 The HA's representative shall, within 10 days after the HA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

9.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the CO and the contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.1.3 If the CO and the contractor's representative are unable to resolve the dispute through such discussion within 10 days, the HA shall, within 10 days thereafter, either:

9.1.3.1 pay the disputed charges and reserve the right to submit the matter to the [STATE] Court Annexed Arbitration program if the disputed amount does not exceed \$40,000 or to the appropriate district court in the State of Illinois;

9.1.3.2 not pay the disputed charge and submit the matter to the [STATE] Court Annexed Arbitration program if the disputed amount does not exceed \$40,000 or to the appropriate district court in the State of Illinois;

9.1.3.3 not pay the disputed charge and allow the Contractor to submit the matter either to the [STATE] Court Annexed Arbitration program if the disputed amount does not exceed \$40,000 or to the appropriate district court in the State of Illinois.

9.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the HA, the HA shall pay the HA's receipt of the decision. If the decision is in favor of the HA, the contractor will either:

9.1.4.1 clear the amount which is ordered from the HA account; or

9.1.4.2 repay to the HA the amount ordered;

Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

10.0 24 CFR 85.36(i), *Procurement*: Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the HA and the Contractor each agree to comply with the following provisions:

10.1 Remedies for Contractor Breach: Pertaining to contract-related issues, it is the responsibility of both the HA and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the HA or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the HA has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the HA shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the HA shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

10.1.1 If the contractor is in material breach of the contract, the HA may promptly invoke the termination clause detailed within Section No. 3 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

10.1.2 Prior to termination, the HA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The HA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HA's alleged incorrect action(s).

10.1.3 After termination, if the contractor does not agree with the HA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HA's alleged incorrect action(s).

- 10.1.4 The response to any protest received shall be conducted in accordance with Section No. 4.0 of the *Instructions to Proposers and Contractors* document.
- 10.2 **Termination For Cause and Convenience:** As detailed within Clause No. 3 of Attachment G-1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(Within or without Maintenance Work)*, attached hereto.
- 10.3 **Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 10.4 **Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 10.5 **Davis-Bacon-Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.6 **Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.7 **Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 10.8 **Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 10.9 **Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the HA has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
- 10.9.1 Except as provided elsewhere in this clause, the HA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or

furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.

- 10.9.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 10.9.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the HA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the HA.
- 10.9.4** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the HA a license of the same scope as identified in the preceding paragraph.
- 10.9.5** The HA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the HA may either return the data to the contractor, or cancel or ignore the markings.
- 10.9.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 10.9.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the HA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any

commercial lease or licensing contract, shall be subject to the following procedures.

10.9.8 The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the HA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.

10.10 Access to Records: Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

10.11 Record Retention: Both parties hereby guarantee retention of all required records for three records after grantees or subgrantees make final payments and all other pending matters are closed.

10.12 Clean Air Act: For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

10.13 Energy Policy and Conservation Act: Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

11.0 Additional Considerations:

11.1 Right of Joinder Pursuant to NRS 332.195:

11.1.1 Any political subdivision within the State of Illinois may be granted the privilege of joining the awarded contract, only at the option of the Contractor. If the Contractor so grants such a privilege, the terms and conditions of the RFP documents, including the ensuing contract, may be passed on to the joining political subdivision by the Contractor.

- 11.1.2 The Contractor shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the Contractor allows another political subdivision to join the HA contract, it is expressly understood that the HA shall in no way be liable for the joining political subdivision obligations to the Contractor in any manner whatsoever.
- 11.2 **Non-Escalation:** Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.
- 11.3 **Funding Restrictions and Order Quantities:** The HA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the HA, if:
 - 12.3.1 funding is not available;
 - 12.3.2 legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
 - 12.3.3 the HA's requirements in good faith change after award of the contract.
- 11.4 Unless otherwise stated in the RFP documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either the HA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the Contractor and any costs that were submitted by the Contractor in response to the RFP shall reflect all costs required by the Contractor to procure and provide such necessary permits.
- 11.5 **Taxes:** All persons doing business with the HA are hereby made aware that the HA is exempt from paying Nevada State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 11.6 **Government Standards:** It is the responsibility of the proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NIOSH) and environmental control (EPA and State of Illinois Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 11.7 **Freight on Bill and Delivery:** All costs submitted by the proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFP documents or within the contract.

- 11.7.1 The Contractor agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the Contractor. Upon default, the Contractor agrees that the HA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.
- 11.8 **Backorders:**
- 11.8.1 The CO must be notified in writing by the contractor within 10 days of any and all backordered materials and/or any incomplete services; and the estimated delivery date.
- 11.8.2 Unless otherwise stipulated in the contract, any order that will take more than a maximum of 10 days past the original agreed upon delivery date, may at the option of the HA, be canceled and ordered from another source, if, in the opinion of the CO, it is in the best interests of the HA to do so.
- 11.9 **Work on HA Property:** If the Contractor's work under the contract involves operations by the Contractor on HA premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the HA's negligence, shall indemnify the HA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
- 11.10 **Official, Agent and Employees of the HA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the HA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 11.11 **Subcontractors:** Unless otherwise stated within the RFP documents, the Contractor may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the CO.
- 11.12 **Salaries and Expenses Relating to the Contractors Employees:** Unless otherwise stated within the RFP documents, the Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 11.13 **Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and

other expenses of such litigation, including reasonable attorneys' fees. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.

- 11.14 Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the Contractor is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 11.15 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 11.16 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 11.17 Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 11.18 Limitation of Liability:** In no event shall the HA be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.
- 11.19 Indemnification:**
- 11.19.1** The Contractor shall indemnify, defend, and hold the HA (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with the "Nevada Industrial Insurance Act," or any other law, ordinance, or decree; or (4) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the HA against any loss or damage which was specifically caused by the HA providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.
- 11.19.2** In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the HA, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account

of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the HA. If the Contractor shall fail to do so, the HA shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

11.19.3 Any money due to the Contractor under and by virtue of this contract, which the HA believes must be withheld from the Contractor to protect the HA, may be retained by the HA so long as it is reasonably necessary to ensure the HA's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the HA provided, however, neither the Corporation's payments shall not be withheld, and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the HA from any potential claims.

11.19.4 The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

12.20 Lobbying Certification: By execution of this contract with the HA the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

12.20.1 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 loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.

12.20.2 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 Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.

12.20.3 The Contractor 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.

12.21 Additional Federally Required Orders/Directives: Both parties agree that they will comply with the following laws and directives, where applicable:

- 12.21.1** Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 12.21.2** Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The HA hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).
- 12.21.3** Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the HA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 12.21.4** The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 12.21.5** Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 12.21.6** HUD Information Bulletin 909-23 which is the following:
 - 12.21.6.1** Notice of Assistance Regarding Patent and Copyright Infringement;
 - 12.21.6.2** Clean Air and Water Certification; and,
 - 12.21.6.3** Energy Policy and Conversation Act.
- 12.21.7** That the funds that are provided by the HA and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.
- 12.21.8** That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.

12.21.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either part.

13.0 Section 3 Clause: As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this contract.

- 13.1 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.
- 13.2 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.
- 13.3 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.
- 13.4 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.

- 13.5 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.
- 13.6 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.
- 13.7 With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

14.0 Appendices:

- 14.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:
 - 14.1.1 **Appendix No. 1:** form HUD-5370-C (10/2006), *General Condition for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, aka Attachment G-1 of the RFP document;
 - 13.1.2 **Appendix No. 2:** form HUD-5370-C (10/2006), *General Condition for Non-Construction Contracts, Section II—(With Maintenance Work)*, aka Attachment G-2 of the RFP document;
 - 13.1.3 **Appendix No. 3:** form HUD-5370 (11/2006), *General Condition for Construction Contracts, Public and Indian Housing Programs*, aka Attachment G-3 of the RFP document;
 - 14.1.4 **Appendix No. 4:** Specific documentation pertaining to Section 3 that pertains to this contract.
 - 14.1.5 **Appendix No. 5:** Scope of Services, as agreed upon by negotiation between the HA and the contractor;
 - 14.1.6 **Appendix No. 6:** The proposed fee(s) submitted by this contractor in response to the RFP, or any negotiated fee(s) that resulted thereto, which fee(s) shall apply to each procurement that ensues from this contract;
 - 14.1.7 Included by reference is any document or clause issued as a part of RFP No. P10-002 that the HA may choose to include at any time during the

performance of this contract or any options exercised thereto by the HA. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the HA upon written request for such from the contractor.

14.2 Please note that, in the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).

15.0 **CERTIFICATIONS:** The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

[The Contractor]:

By: _____ Date: _____
[Name], [Title]

Housing Authority of the _____:

By: _____ Date: _____
[Name], [Title]

A
T
T
A
C
H
E
M
E
N
T

G
1

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. 12/31/2011)

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 988.105) **greater than \$2,000 but not more than \$100,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

proposal submitted before final payment of the contract.

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

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall 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 there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other 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.

A
T
T
A
C
H
E
M
E
N
T

G
2

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 12/31/2011)

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

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

in the classification under this Contract from the first day on which work is performed in the classification.

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

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

1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
 - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the industry; and
 - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
 - (i) Name, address and Social Security Number;
 - (ii) Correct work classification or classifications;
 - (iii) Hourly rate or rates of monetary wages paid;
 - (iv) Rate or rates of any fringe benefits provided;
 - (v) Number of daily and weekly hours worked;
 - (vi) Gross wages earned;
 - (vii) Any deductions made; and
 - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
 - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice;

(ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or

(iii) A training/trainee program that has received prior approval by HUD.

(b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

(c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.

(d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

(e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

(a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).

(i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD).

(ii) The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations.

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

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

6. Contract Work Hours and Safety Standards Act

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

(a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

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

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

A
T
T
A
C
H
E
M
E
N
T

H

REQUEST FOR PROPOSALS (RFP) No.20-072
Asphalt Services- Parking Lot Crack Filling, Seal Coating & Striping

Proposed Products to be Utilized (Attachment H)
--

(This Form must be fully completed and placed under Tab #4 of the proposal submittal.)

Instructions: Each proposer shall detail hereunder the following information pertaining to each of the products the proposer proposes to utilize on HA property to provide the noted services (please feel free to duplicate this sheet if necessary):

- (a) Name of Product:
- (b) Manufacturer:
- (c) Product SKU #:
- (d) Attach manufacturer's spec sheet, warranty info and MSDS for each product.

Signature

Date

Printed Name

Company

HOUSING AUTHORITY OF THE COUNTY OF DEKLAB

A
T
T
A
C
H
E
M
E
N
T

I

FACILITY	CONTACTS	DATA
Taylor Street Plaza (1970) 507 E Taylor St DeKalb IL 60115 815-758-4396 Phone 815-758-4856 Fax	Martha Allison, Manager Jennifer Price, Admin Aaron Anderson, Maintenance TBD, Maintenance Unit 210 Resident Council	150 one bedroom units – 310-400 sq ft 16 story hi-rise AMP 1-L089000100 Development IL089001 Public Housing
Civic Apartments (1970) 350 Grant St Sycamore IL 60178 815-895-5631 Phone 815-899-3916 Fax	Maria Taylor, Manager Erica Williams – Admin Asst Kevin Zirzow, Maintenance Kurt Warren, Maintenance Unit 101 – Office Unit 400 – Resident Council	74 one bedroom units – 296 sq ft 5 Story medium-rise AMP 3-L089000300 Development IL0890003 Public Housing
Mason Court Apartments (1971) 275 N Cross St Sycamore IL 60178 815-895-5631 Phone 815-899-3916 Fax	Maria Taylor, Manager Erica Williams – Admin Asst Kevin Zirzow, Maintenance Kurt Warren, Maintenance Resident Officer Unit 101	12 two bedroom units – 581 sq ft 14 three bedroom units – 700 sq ft 26 Total Units 13 Buildings AMP 3-L089000300 Development IL089004 Public Housing Family Site
Sunset View Apartments (1977) 160 N Garfield 1-4 180 N Garfield 1-4 251 W McKinley 1-4 Hinckley IL 60520 815-895-5631 Phone 815-899-3916 Fax Privately Owed by HACD as of Sept. 23, 2015 Accepting HCV Vouchers	Maria Taylor, Manager Erica Williams – Admin Asst Kevin Zirzow, Maintenance Kurt Warren, Maintenance	3 one bedroom units – 625 sq ft 9 two bedroom units - 756 sq ft 12 Total Units 3 Buildings
Lewis Court (1979) 802 N 14 th St A-B 1428 Lewis A-C 720 N 14 th St A-C 730 N 14 th St A-d 760 N 14 th St A-B DeKalb IL 60115	Jill Morgan, Manager Erica Williams – Admin Asst Jerry Dudzik, Maintenance Corey Shaw, Maintenance Resident Officer - 802 N 14 th A- Jonathan Bell	8 two bedroom units – 590 sq ft 6 three bedroom units – 702 sq ft 14 Total Units 7 Buildings AMP 2-L089000200 Development IL089002 Public Housing Family Site 1000-1100 sq ft.
Sequoia Apartments (1980) 15 Sequoia St Shabbona IL 60550 815-895-5631 Phone 815-899-3916 Fax Multi-Family National Housing Compliance PBC – Performance Based Contract Administration	Maria Taylor, Manager Erica Williams – Admin Asst Kevin Zirzow, Maintenance Kurt Warren, Maintenance	9 one bedroom units – 668 sq ft 3 two bedroom units – 799 sq ft 12 Total Units 3 Buildings Project Based Section 8 NHC Contract# IL06R000026 Property ID – 800006316

FACILITY	CONTACTS	DATA
Garden Estates (1987) 234 W Garden St A-G 506 Leonard Ave A-B 207 W Garden A-B 427 Haish Blvd A-E DeKalb IL 60115	Jill Morgan, Manager Erica Williams – Admin Asst Jerry Dudzik, Maintenance Corey Shaw, Maintenance	10 two bedroom units – 702 sq ft 6 three bedroom units 812 sq ft 16 Total Units 4 Town home Units AMP 2-L089000200 Development IL089005 Public Housing Family Site
Gurler Street Apartments (1970) 307 Gurler St. 313 Gurler St. DeKalb, IL 60115 Online with DCHA - 1994	Jill Morgan, Manager Erica Williams – Admin Asst Jerry Dudzik, Maintenance Corey Shaw, Maintenance DCRDC, Owner BGC, Support Services Unit 313 - Office	4 one bedroom units 8 two bedroom units 2 Buildings Shelter Plus Care Project Based Assistance Homeless with disabilities
Dresser Court Apartments (2003) 965 Dresser Court DeKalb IL, 60115 SPC – Tenant Base Assistance	Jill Morgan, Manager Erica Williams – Admin Asst Jerry Dudzik, Maintenance Corey Shaw, Maintenance DCRDC, Owner Hope Haven, Support Services	26 one bedroom units – 416 sq ft 1 Building Shelter Plus Care Project Based Assistance Chronically Homeless
Sunset House (1950 purchased 2011) 316 E. Sunset Pl. DeKalb, IL 60115 DOFA 3/1/12	Jill Morgan, Manager Erica Williams – Admin Asst Jerry Dudzik, Maintenance Corey Shaw, Maintenance	Single Family Home Two bedroom – 864 sq ft One bathroom
Briarwood Apartments (1994) 3345 Resource Parkway DeKalb, IL 60115 815-758-2960 Phone 815-517-1594 Fax Took ownership 12/20/2012	Jill Morgan, Manager Erica Williams – Admin Asst Jerry Dudzik, Maintenance Corey Shaw, Maintenance	16 one bedroom units – 645 sq ft 24 two bedroom units – 850 sq ft 8 three bedroom units – 945 sq ft 48 Total Units 6 Buildings
Central Office (year?) 310 N. 6 th Street DeKalb, IL 60115 815-758-2692 Phone 815-758-4190 Fax		

A
T
T
A
C
H
E
M
E
N
T

J

TASK ORDER (TO) No.:	
ORDERED BY (HACD _____)	TELEPHONE: _____ FAX: _____
CONTRACTOR: _____	TELEPHONE: _____ FAX: _____
WORK REQUESTED: _____	
AGREED UPON: START DATE: _____ COMPLETION DATE: _____	

Attach on Contractor's form a full detail of all legal work to be completed.

[illegible]

Signature _____ Date _____ Printed Name _____

- Rated By:

Signature _____ Date _____ Printed Name _____