

EXHIBIT B

SERVICES AGREEMENT (GENERAL)

Section 8 Housing Landlord Mitigation & Incentive Program

Authority Agreement No. _____

Authority Budget Code: 84601-53201: \$18,498
84301-53201: \$80,015
84401-53201: \$106,673

This Services Agreement (General) for operation of the Section 8 Housing Landlord Mitigation and Incentive Program (“**Agreement**”) by and between the Housing Authority of the City of Napa, a public corporation formed and governed by California Health and Safety Code Sections 34200, et seq. (“**Authority**”), and Abode Services, a California nonprofit public benefit corporation (“**Consultant**”), is effective on the Effective Date identified on the signature page.

RECITALS

A. The Authority developed a program to provide financial incentives and other services to encourage property owners to rent residential units to holders of Section 8 Housing Choice Vouchers (“**Section 8 Vouchers**”) who are homeless or at risk of homelessness.

B. The Authority desired to expand the program in order to be able to assist additional Section 8 Voucher holders find housing, so on July 31, 2018 the Authority issued a Request for Proposal for a program operator, and on September 5, 2018 Consultant submitted a proposal.

NOW, THEREFORE, the Authority and the Consultant, for the mutual consideration described herein, agree as follows:

1. SCOPE OF SERVICES.

1.1. Services. Consultant will perform the services described in the *Scope of Services and Schedule of Performance*, attached hereto as **Exhibit “A”** and incorporated herein by reference (“**Services**”), in accordance with the terms and conditions of this Agreement and to the satisfaction of the Authority’s authorized representative, Housing Manager (“**Authority’s Authorized Representative**”).

1.2. Standard of Care. In performing the Services, Consultant will meet or exceed the applicable standard of care for, and exercise the degree of skill and diligence ordinarily used by reputable service providers within the greater San Francisco Bay Area who provide the same or similar type of services as the Services required under this Agreement. Consultant will require and ensure that all of its employees, subconsultants, or agents performing or contributing to the Services will comply with the requirements of this Agreement.

1.3. Independent Contractor. Consultant will control the manner and means for performing the Services, acting as an independent contractor and not as an employee of the Authority. Consultant will not be entitled to any of the benefits that the Authority provides to its employees, including, but not limited to, health or retirement benefits.

1.4. Subcontracting. If Consultant subcontracts with a subconsultant to perform any of the Services, the Authority is deemed an intended beneficiary of that subcontract and the subconsultant will owe a duty of due care to the Authority. Authority reserves the right to approve or reject any proposed subconsultant, based on the subconsultant’s qualifications, relevant experience, or reputation.

1.5. Third Party Beneficiaries. Except to the extent expressly stated herein, this Agreement will not be construed to create any rights in third parties.

EXHIBIT B

1.6. Time for Performance. Time is of the essence for the performance of all Services and duties under this Agreement. Consultant will commence and complete all Services by the date and within any timeframes set forth in Exhibit "A." Services for which times for performance are not specified in this Agreement will be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction from the Authority's Authorized Representative. Consultant will submit all requests for extensions of time to the Authority in writing no later than ten days after the start of the circumstances or events giving rise to the delay, and no later than the time by which performance is due. The Authority's approval of any extension of time for performance of the Services will not operate to waive the Authority's rights or remedies with respect to damages caused by Consultant's delay.

1.7. Unsatisfactory Services. Upon written notice from the Authority that any of the Services are unsatisfactory or fail to comply with the requirements of this Agreement (collectively, "**Unsatisfactory Services**"), Consultant must promptly correct or cure any such Unsatisfactory Services as specified in the Authority's written notice. Consultant will not be entitled to any additional compensation or extension of time to correct or cure the Unsatisfactory Services. Consultant's correction or cure of Unsatisfactory Services will not operate to waive the Authority's rights or remedies with respect to any damages caused by the Unsatisfactory Services, the cost of which may be recovered by the Authority as an offset from payment otherwise due or to become due to Consultant.

2. COMPENSATION.

2.1. Payment. The Authority will pay Consultant for Consultant's time and authorized expenses necessary to perform the Services, at the rates and charges set forth in the *Compensation Rates and Charges* attached hereto as **Exhibit "B"** and incorporated herein by reference, as compensation in full for Services satisfactorily performed in compliance with this Agreement. Consultant's total compensation for performing the Services may not exceed \$205,586, without prior written authorization from the Authority. If the Authority authorizes Consultant to perform services in addition to the Scope of Services set forth in Exhibit "A," Consultant will be compensated in accordance with the rates and charges in Exhibit "B." Consultant will not be entitled to any compensation for additional services performed without the Authority's prior written consent, or which exceed the scope of the Authority's written consent.

2.2. Invoices. Consultant will submit a monthly itemized invoice to the Authority's Authorized Representative for the Services provided during the preceding month. At a minimum, the invoice must identify the Services performed, the hours spent performing the Services, the applicable hourly rate(s), and any authorized expenses based on the rates and charges authorized in Exhibit "B." The Authority will pay the Consultant within 30 days after approval of each invoice, with the exception of any disputed amounts.

3. AUTHORIZED REPRESENTATIVE. Consultant hereby assigns Vivian Wan, Chief Operating Officer, to serve as the Consultant's authorized representative ("**Consultant's Authorized Representative**"), to personally participate in and manage the Services provided under this Agreement, and to serve as the primary point of contact for all matters pertaining to this Agreement.

3.1. Substitutions. As a material inducement to entering into this Agreement, the Authority has relied upon Consultant's representations regarding Consultant's qualifications (including the qualifications of Consultant's Authorized Representative, its personnel, and its subconsultants, if any, as identified on Exhibits "A" and "B"). Consultant will not replace Consultant's Authorized Representative (or any of its personnel or its subconsultants, if any, as identified on Exhibits "A" and "B") without the Authority's prior written consent.

4. NOTICES. All notices or requests required or contemplated by this Agreement will be in writing and delivered to the other party's Authorized Representative by personal delivery, U.S. Mail, nationwide overnight delivery service, email, or as otherwise specified herein. Delivery is deemed effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, (b) actual receipt at the address identified below, or (c) three business days following deposit in the U.S. Mail of registered or certified mail sent to the address identified below. A party's contact information, below, may be changed by providing written notice of any change to the other party.

EXHIBIT B

TO AUTHORITY:

Housing Manager
HOUSING AUTHORITY OF THE CITY OF NAPA
P.O. Box 660
NAPA, CA 94559-0660
lferrell@cityofnapa.org

TO CONSULTANT:

Vivian Wan
Chief Operating Officer
40849 Fremont Boulevard
Fremont, CA 94538
vwan@abodeservices.org

5. TERM. The term of this Agreement begins on the date it is signed by the Deputy Secretary, below, attesting to full execution of the Agreement by both parties ("**Effective Date**") and is for one year, unless terminated earlier as provided herein. The following provisions will survive expiration or termination of this Agreement: Section 7.2 (Dispute Resolution), Section 8.1 (Confidentiality), Section 8.4 (Records of Performance), Section 10 (Indemnification), Section 13.3 (Taxes), and Section 14 (General Provisions).

6. AUTHORITY'S RIGHT TO TERMINATE. The Authority may terminate this Agreement for convenience (with or without cause) by providing written notice of termination to Consultant, effective upon the date stated in the notice. If the Authority terminates the Agreement it will pay Consultant for all Services satisfactorily performed up to and including the effective date of the termination, subject to the provisions of Sections 2 and 8.2.

7. DEFAULT AND DISPUTE RESOLUTION.

7.1. Default. Consultant will be deemed in default of this Agreement if Consultant is not complying with the terms of this Agreement, or the Authority has reason to believe that Consultant's ability to perform the Services has been or will be impaired. If either of these circumstances exist, the Authority may give written notice of default to Consultant and demand that the default be cured or corrected within ten days of the notice, unless the Authority determines that additional time is reasonably necessary to cure the default. If Consultant fails to cure the default within of the time specified in the notice, and the Consultant fails to give adequate written assurance of due performance within the specified time, then the Authority may terminate this Agreement in accordance with Section 6, or the Authority may pursue dispute resolution in accordance with Section 7.2.

7.2. Dispute Resolution. If any dispute arises between the parties in relation to this Agreement, the Authorized Representatives for each party will meet, in person, as soon as practicable, to engage in a good faith effort to resolve the dispute informally. If the parties are unable to resolve the dispute, in whole or in part, through informal discussions, the parties agree to participate in mediation. Notwithstanding the existence of a dispute, the Consultant will continue providing the Services during the course of any dispute, unless otherwise directed by the Authority.

7.2.1. Either party may give written notice to the other party of a request to submit a dispute to mediation, and a mediation session must take place within 60 days of the date that such notice is given, or sooner if reasonably practicable. The parties will jointly appoint a mutually acceptable mediator. The parties will share equally the costs of the mediator; however, each party will pay its own costs of preparing for and participating in the mediation, including any legal costs.

7.2.2. Good faith participation in mediation pursuant to this Section is a condition precedent to either party commencing litigation in relation to the dispute. In addition, any claims by Consultant arising from or related to this Agreement are subject to the claim presentment requirements in the Government Claims Act (Government Code section 900 et seq.).

EXHIBIT B

8. INFORMATION AND RECORDS.

8.1. Confidentiality. Consultant will not disclose any information or records related to the performance of this Agreement, including information and records received from the Authority, as well as information and records created by the Consultant, to any person other than a Authority employee, unless and only to the extent that the Authority provides the Consultant with prior written consent to make a disclosure. Consultant will notify the Authority's Authorized Representative of any request for disclosure of information, or any actual or potential disclosure of information, under this Agreement.

8.2. Title to Records. All original documents or records ("**work product**"), whether paper or electronic, required by this Agreement to be prepared by Consultant (including its employees and subconsultants), whether complete or in progress, are the property of the Authority. Consultant will promptly deliver all such work product to the Authority at the completion of the Services, upon termination, or upon demand by the Authority. However, Consultant may make and keep copies of the work product.

8.3. Contract Cost Disclosure. For any document or report prepared in whole or in part by Consultant pursuant to this Agreement, Consultant will include the numbers and dollar amounts of related contracts or subcontracts as further specified by Government Code Section 7550.

8.4. Records of Performance. Consultant will maintain adequate records of performance under this Agreement (including Services provided, invoices for payment, and payments received) and make these records available to the Authority for inspection, audit, and copying, during the term of this Agreement and until four years after the Agreement has expired or been terminated.

8.5. Electronic Communications. Consultant will use reasonable good faith efforts to avoid transmitting electronic viruses or other damaging coding, and will promptly advise the Authority if Consultant discovers that an electronic virus or similar destructive coding may have been transmitted to the Authority.

8.6. Copyrights/Patents. In performing the Services under this Agreement, Consultant will not unlawfully infringe on any copyrighted or patented work. Consultant is solely responsible for the cost of any authorizations necessary to use any copyrighted or patented work.

9. ACCIDENT REPORT. If any death, personal injury, or property damage occurs in connection with the performance of the Services, Consultant will promptly submit to the Deputy Secretary's Office a written notice of the incident of damage with the following information:

9.1. A description of the damage including date, time, and location, and whether any Authority property was involved;

9.2. Name and contact information of any witness;

9.3. Name and address of the injured or deceased person(s); and

9.4. Name and address of Consultant's insurance company.

10. INDEMNIFICATION. To the full extent permitted by law, Consultant will indemnify, hold harmless, release, and defend the Authority (including its officers, elected or appointed officials, employees, volunteers, and agents) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "**Liability**") of any nature, arising out of, pertaining to, or relating to Consultant's acts or omissions under this Agreement. Consistent with Civil Code Section 2782, Consultant will not be obligated to indemnify Authority for the proportionate share of the Liability caused by the Authority's active negligence, sole negligence, or willful misconduct. Consultant's indemnification obligations under this Agreement are not limited by any limitations of any insurance held by Consultant, including, but not limited to, workers' compensation insurance.

EXHIBIT B

11. INSURANCE. Without limiting Consultant's indemnification obligations in Section 10, Consultant will procure and maintain throughout the period of this Agreement the following policies of insurance and endorsements from insurers (if other than the State Compensation Fund) with a current A.M. Best rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of Consultant, its agents, employees or subcontractors:

11.1. General Liability Policy. Comprehensive or Commercial General Liability Insurance ("CGL") at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 per occurrence. If the Services involve explosive, underground or collapse risks, XCU will be included. If a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement or the general aggregate will be twice the required occurrence limit.

11.2. Automobile Liability Policy. Automobile liability insurance with coverage at least as broad as ISO Form numbers CA 0001 06 92, Code 1 (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than \$1,000,000 per accident, combined single limit.

11.3. Workers' Compensation. Workers' Compensation insurance meeting statutory limits of the Labor Code. The workers' compensation policy will contain or be endorsed to contain a waiver of subrogation against the Authority, its officials, officers, agents, and employees.

11.4. Endorsements. The CGL and automotive liability policies will contain or be endorsed with the following provisions:

11.4.1. The Authority, its officers, elected or appointed officials, employees, volunteers, and agents, are covered as additional insureds for liability arising out of the operations performed by or on behalf of Consultant. The coverage will contain no special limitations on the scope of protection afforded to the Authority, its officers, officials, employees, volunteers, and agents.

11.4.2. The Consultant's insurance is primary and no insurance held by the Authority will be called upon to contribute to a loss.

11.4.3. The inclusion of more than one insured will not operate to impair or limit the rights of one insured against another, and the coverage will apply as though separate policies have been issued to each insured.

11.5. All Policies.

11.5.1. For all insurance policies required under this Agreement, prior to Authority's execution of this Agreement, Consultant will furnish the Authority with certificates and original endorsements effecting the required coverage. Each certificate of insurance will state that the coverage afforded by the policy or policies will not be reduced, cancelled, or allowed to expire without at least 30 days written notice to Authority, unless due to non-payment of premiums, in which case at least 10 days written notice is required. Notice required under this subsection will be sent by certified mail. Each required policy will include an endorsement providing that the insurer agrees to waive any right of subrogation it may have against the Authority. The endorsements will be on forms provided by Authority or as approved by Authority's Risk Manager.

11.5.2. Any deductible or self-insured retention of \$100,000 or more will be disclosed to the Authority prior to Authority's execution of this Agreement and is subject to approval by the Authority.

11.5.3. If Consultant does not keep all required insurance policies in full force and effect, the Authority may, in addition to other remedies under this Agreement, terminate or suspend this Agreement.

12. CONFLICTS OF INTEREST. Consultant warrants that as of the Effective Date of this Agreement it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Services. Consultant further warrants that in the performance of the Services, Consultant will not employ or enter into a subcontract with any person or entity having any such conflict of

EXHIBIT B

interest.

12.1. Financial Interest. Consultant will not make or participate in making or in any way attempt to use Consultant's position to influence a Authority decision in which Consultant knows, or has reason to know, Consultant has a financial interest other than the compensation promised by this Agreement. Consultant represents that it has diligently conducted a search and inventory of its financial interests, as defined in the regulations promulgated by the Fair Political Practices Commission, and has determined that Consultant does not, to the best of Consultant's knowledge, have a financial interest that would conflict with Consultant's duties under this Agreement. Consultant will immediately notify the Authority in writing if Consultant learns of a financial interest that may conflict with Consultant's obligations under this Agreement.

12.2. Covenant Against Contingent Fees. Consultant warrants that it has not employed, retained, or entered into a contract with any person or entity, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement; and that it has not paid or agreed to pay any person or entity, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the making of this Agreement. For breach or violation of this warranty, the Authority may void this Agreement without liability or any further obligation to Consultant, or, alternatively, may elect to deduct from payments due or to become due to Consultant, the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

12.3. Statement of Economic Interest. If the Authority determines Consultant (or any of its employees or subconsultants) is subject to disclosure requirements under the Political Reform Act (Government Code section 87100 et seq.), Consultant (including any required employees or subconsultants) will complete and file a "Statement of Economic Interest" (Form 700) with the Deputy Secretary's Office disclosing Consultant's financial interests.

13. COMPLIANCE WITH LAW.

13.1. Legal and Licensing Compliance. Consultant will comply with all applicable federal, state and local laws, rules, and regulations related to the Services under this Agreement, including the federal requirements set forth in Exhibit "C" attached hereto and incorporated herein. Consultant represents and warrants to Authority that Consultant has and will keep in effect during the term of this Agreement all licenses (including, but not limited to, the City of Napa business license), permits, qualifications, and approvals of whatsoever nature which are legally required for Consultant to practice Consultant's profession or perform the Services.

13.2. Nondiscrimination. At all times during the term of this Agreement, Consultant will comply with all applicable federal, state, and local laws, rules, and regulations prohibiting discrimination based on race, ethnicity, color, national origin, religion, marital status, age, sex, sexual orientation, disability (including any physical or mental impairment that substantially limits a major life activity), medical condition, or any protected class.

13.3. Taxes. Consultant will file tax returns as required by law and pay all applicable taxes on amounts paid pursuant to this Agreement. Consultant will be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes.

13.4. Provisions Deemed Inserted. Every provision of law required to be inserted or referenced in this Agreement will be deemed to be inserted or referenced.

14. GENERAL PROVISIONS.

14.1. Headings. The heading titles for each section of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

14.2. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement will be construed

EXHIBIT B

as not containing that term, and the remainder of this Agreement will remain in full force and effect; provided, however, this section will not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

14.3. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement will be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement will be filed and heard in a court of competent jurisdiction in the County of Napa.

14.4. Attorney's Fees. If any litigation is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

14.5. Assignment and Delegation. This Agreement will not be assigned or transferred in whole or in part, nor will any of the Consultant's duties be delegated without the Authority's prior written consent. Any attempt to assign, transfer, or delegate this Agreement, in whole or any part, without the Authority's prior written consent will be void and of no force or effect. Any consent by the Authority to one assignment, transfer, or delegation will not be deemed to be consent to any subsequent assignment, transfer, or delegation.

14.6. Modifications. This Agreement may not be amended or modified orally. No amendment or modification of this Agreement is binding unless it is in a writing signed by both parties.

14.7. Waivers. No waiver of a breach, default, or duty under this Agreement will be effective unless it is in writing and signed by the party waiving the breach, default, or duty. Waiver of a breach, default, or duty under this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach, default, or duty under this Agreement.

14.8. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement will control over any such conflicting or inconsistent provisions.

14.9. Interpretation. Each party to this Agreement has had an opportunity to review the Agreement, and to consult with its respective legal counsel regarding the meaning of the Agreement. Accordingly, Civil Code Section 1654 will not apply to interpret any uncertainty in the meaning of the Agreement.

15. SIGNATURES.

15.1. Counterparts. This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

15.2. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the Authority.

16. FEDERALLY REQUIRED CLAUSES

16.1. Mandatory Federal Contract Clauses. The federally required clauses contained in Exhibit "C" are incorporated and included as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the Effective Date

EXHIBIT B

set forth below.

AUTHORITY:
HOUSING AUTHORITY OF THE CITY OF NAPA,
A public corporation

By: _____
Steve Potter, Executive Director

ATTEST:

Dorothy Roberts, Deputy Secretary

Date: _____
("Effective Date")

COUNTERSIGNED:

Desiree Brun, City Auditor

APPROVED AS TO FORM:

Michael W. Barrett, Authority General Counsel

CONSULTANT:

Abode Services, a California nonprofit public benefit corporation

By: _____
John Barton, President

By: _____
Maribel Castaneda-Sargent, Secretary

EXHIBIT B

EXHIBIT "A"

SCOPE OF SERVICES AND SCHEDULE OF PERFORMANCE

SCOPE OF SERVICES. Consultant will perform the Services described in this Exhibit "A," in accordance with the terms of the Agreement. The Consultant shall provide the following services. Capitalized terms used without definition in this Exhibit shall have the meanings assigned to such terms in the Program Guidelines (Attachment 2):

1. Provide housing location services to Eligible Tenants referred by the Authority.
2. Work with Eligible Tenants and community organizations in efforts to obtain funding for tenant security deposits.
3. Provide a "Housing Specialist" to participating property owners to assist with tenant-related issues.
4. Provide on-going support services to tenants to minimize tenant-related issues for the duration of the contract terms.
5. Establish and staff a Landlord Crisis Response Hotline as a toll-free telephone line that property owners may call during the hours of 5:30 p.m. and 8:30 a.m. and all day on weekends and holidays, to obtain advice regarding urgent tenant-related matters.
6. Review, analyze and process property owner claims for New Owner Bonuses, Additional Unit Bonuses, Continuity Payments, and No Loss Vacancy Bonuses, each in accordance with and as described in the Guidelines. Inspect properties. Coordinate with Authority to determine property owner eligibility for payments.
7. Review, analyze and process property owner claims for Damages Payments and Arrears/Uncollected Rent Payments. Conduct property inspections to assess damage and review documentation to determine eligibility for payments. Submit claims requests to Authority for payment.

B. Reporting Requirements

Consultant shall provide all services under this Agreement in accordance with a schedule approved by the Authority and prior to the expiration of the term of the Agreement (as such may be extended by written agreement of the Parties). Consultant shall submit quarterly reports on services provided within thirty (30) days after the end of the quarter for the quarters ending December 31, 2018, March 31, 2019 and June 30, 2019, and September 30, 2019. Reports shall at a minimum include the following:

1. Summary and report on status of referred tenants including number housed, number currently assisted in housing search, etc.
2. Summary and report on status of matters handled by Housing Specialist and the Landlord Crisis Response Hotline

EXHIBIT B

EXHIBIT "B"

COMPENSATION RATES AND CHARGES

Total compensation payable to Consultant for services provided under this Agreement shall be up to Two Hundred Five Thousand Five Hundred Eighty-Six Dollars (\$205,586) in accordance with the following budget based on actual costs incurred:

1. Up to \$76,950 for direct staff costs, operations, and administration per the Budget in the attached Attachment 1.
2. Up to \$48,750 for landlord incentive payments in accordance with Program guidelines
3. Up to \$40,000 for barrier removal. Barrier removal may include, but is not limited to, security deposits, application fees, and past-due utility accounts in order to allow a household to open new utility accounts.
4. Up to \$8,375 for program operations.
5. Up to \$31,511 for administrative staffing/operations

Payments for vacancies or damage due to tenant-caused damages shall be paid directly to landlord by Housing Authority.

Payments will be made based upon Consultant's submittal of invoices upon the completion of tasks and submittal of required reports.

Invoices for Item 2 shall identify the name of landlord receiving incentive, property address, and client assisted by the landlord incentive payment.

Invoices for Item 3 shall include the name of the client assisted and the purpose of the payment.

Any mileage charged shall be billed up to the federal rate.

EXHIBIT B

Attachment 1 Program Budget

Description	Salary	Benefits	FTE	Annual Cost	
Program Manager	80,000	20,000	0.1	10,000	
Housing Specialist	53,560	13,390	1	66,950	
Salaries & Wages Subtotal	133,560	33,390	1.1	76,950	
	Cost/Unit		# of Units	Annual Cost	
Landlord Incentives	750		65	48,750	
Risk Mitigation	Funds held & disbursed by Housing Authority (\$36K)				
Barrier Removal	2,000		20	40,000	
Direct Landlord/Client Support Subtotal				88,750	
Telephone	900			900	
Travel/Mileage	4,200			4,200	
Recruitment	75			75	
Office Supplies	1,200			1,200	
Equipment/Supplies	2,000			2,000	
Program Operations Subtotal				8,375	
Admin-Staffing/Operations @ 15%				26,111	
15% of estimated risk mitigation				5,400	
Admin Subtotal				31,511	
Total Program Budget				205,586	

EXHIBIT B

ATTACHMENT 2

Program Guidelines

Housing Authority of the City of Napa Section 8 Landlord Mitigation and Incentive Program Guidelines

This Landlord Mitigation and Incentive Program (the “**Program**”) provides financial incentives to encourage property owners to rent residential units to holders of Section 8 Housing Choice Vouchers (“**Section 8 Vouchers**”) who are homeless/at risk of becoming homeless. Under the Program, the Housing Authority of the City of Napa (“**Housing Authority**”) provides “bonus/incentive” payments to property owners in Napa County (including incorporated cities and municipalities within the County) who agree to rent residential units to Eligible Tenants (defined below). In addition, the Program provides funding to mitigate potential losses that a participating property owner may experience due to nonpayment of rent or damage to a unit. The Program is administered by the Housing Authority Executive Director, or a designee of the Executive Director; which, as identified in the Program, may include the Housing Manager. The Executive Director, or designee, may delegate specified services under the Program to a contractor under contract with the Housing Authority. The Housing Authority is currently under contract with Abode Services, a California nonprofit public benefit corporation (“**Abode**”) to provide services under the Program, including: Abode will refer Eligible Tenants to participating property owners, will seek resources for tenant security deposits, will assign a staff person to support and advise each participating property owner, and will staff a telephone hotline to provide after-hours assistance to property owners to address urgent tenant-related concerns.

I. ELIGIBLE TENANTS

To be eligible to participate in the Program, a prospective tenant must meet all of the following qualifications:

- (i) the person or household must be a current holder of a Section 8 Voucher;
- (ii) the Housing Manager has made a determination that the person or household has been unable to locate available rental housing and therefore is homeless/at risk of becoming homeless and at risk of losing their Section 8 Voucher;

EXHIBIT B

(iii) the Housing Authority must have referred the prospective tenant to Abode for assistance in locating housing; and

(iv) Abode must have referred the prospective tenant to the Property owner.

In order to be considered homeless, a household must lack a fixed, regular, and adequate nighttime residence. This shall include households who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (i.e. “coach surfing”), are living in motels, hotels, or campgrounds due to the lack of alternative accommodations, are living in emergency or transitional shelters, or are living in a place not normally meant for habitation (i.e. living in cars, parks, public spaces, abandoned buildings, or similar settings).

In order to be considered at-risk of homelessness, the household must have had a voucher issued to them which will expire with 60 days and they have either:

(i) been unable to locate a housing unit that will accept the voucher (and the household’s current landlord will not accept the voucher and, without the voucher, they are extremely housing burdened – i.e. paying over 50% of their income for rent); or

(ii) they already have a unit they are renting with a voucher, but the landlord has given them a notice to vacate for no-cause (i.e. 90-day notice), and they have been unable to locate a replacement unit.

Eligible Tenants may include both households that have newly been issued Section 8 Vouchers and households that are seeking to move either because the rent for their current unit has been increased beyond what the household can afford even with a Section 8 Voucher, and/or because they have received a notice to vacate their current unit.

II. BONUS/INCENTIVE PAYMENTS

Participating property owners who agree to rent to an Eligible Tenant may receive any combination of the following bonus payments in the maximum aggregate amount equal to one month’s contract rent for the rental unit.

A. New Owner Bonus: Property owners that have not rented to a Section 8 Voucher holder in the past three years, are eligible to receive a “New Owner Bonus” in the amount of \$1,000 when they sign a 12-month lease with an Eligible Tenant.

B. Additional Unit payment: Property owners who agree to rent more than one residential unit to Eligible Tenants are eligible to receive an “Additional Unit Bonus” in the amount of \$500 for each additional unit (beyond the first) when they sign a 12-month lease with each Eligible Tenant.

EXHIBIT B

C. Continuity Payment: When an Eligible Tenant participating in the Program vacates a unit (other than due to eviction), the Property owner is eligible to receive a “Continuity Payment” in an amount equal to one month’s contract rent based upon the contract rent paid by and/or on behalf of the vacating tenant if the property owner signs a 12-month lease to rent the vacated unit to an Eligible Tenant within 30 days following the date of the vacancy. If the unit is re-occupied within the same month that the unit becomes vacant, the Continuity Payment will be reduced by the contract rent paid by and/or on behalf of the new tenant. To be eligible to receive a Continuity Payment, property owners must notify Abode of their interest in participating in the Program before or at the time a unit becomes vacant. The Continuity Payment potentially enables the property owner to receive an additional month’s rent if they agree to rent vacant units to new Eligible Tenants.

D. “No Loss” Vacancy Bonus: When a property owner agrees to rent a unit to an Eligible Tenant pursuant to a 12-month lease, the owner may be eligible for a “No Loss Vacancy Bonus” payment to cover rent losses for units that become vacant and available for occupancy. The payment will be equal to a daily prorated amount based upon the approved contract rent, and will be paid based upon the number of days a unit remains vacant after it is ready to be leased and occupied. The maximum payment amount is equal to the monthly contract rent amount. To be eligible, property owners must provide Abode and the Housing Authority with a written notice of their intent to rent to a program participant, and the unit must be move-in ready. Property owners are not permitted to receive both a Continuity Payment and a No Loss Vacancy Bonus concurrently for the same unit.

III. LOSS MITIGATION PAYMENTS

If a participating Eligible Tenant abandons a unit leaving significant damage, breaks their lease, is evicted for non-payment of rent or repeated lease violations that result in lost rent, or any combination of these, the Program will provide the property owner with compensation for costs above those covered by the tenant’s security deposit, up to a maximum of \$3,500 per unit. Property owners may submit claims for these payments only during the three-year period commencing upon the Eligible Tenant’s initial lease start date. Claims must be submitted within thirty days following the date the unit is vacated or abandoned. Eligible payments include the following:

A. Damages Payment: The property owner may be eligible for a “Damages Payment” if costs to repair damage caused by an Eligible Tenant will exceed the amount of the tenant’s security deposit. The property owner must confirm that the tenant has vacated the unit and must provide Abode with proper documentation of the condition of the unit. Proper documentation (such as photographs and work

EXHIBIT B

orders) must support a reasonable expectation that the required repairs will exceed the amount of the tenant's security deposit. Abode or the Housing Authority must inspect the unit to verify damage prior to the commencement of any repairs or other work. Normal wear-and-tear, and damage not caused by tenants (such as by an Act of God) are not covered under the Program. The maximum payment is \$3500 in the aggregate in combination with any Uncollected Rent payment (described below).

B. Arrears/Uncollected Rent: If a participating Eligible Tenant abandons a unit or is evicted, and owes rent that exceeds the amount of the security deposit less the cost to repair damage, the property owner may be eligible for a payment in the amount of all or a portion of the unrecovered rent up to a maximum aggregate amount, combined with any payment to cover damages, of \$3500. The property owner must provide evidence that written notices of past due rent have been provided to the tenant, and must provide a ledger of the total amount owed, including the amount to be covered by the security deposit. The payment will only cover past unpaid rent that is not covered by the security deposit, and does not cover eviction costs.

IV. BARRIER REMOVAL AND SECURITY DEPOSIT RESOURCES

The Program may provide up to \$5,000 for "barrier removal" to assist an Eligible Tenant secure housing. Eligible costs may include, but are not limited to, application fees, security deposit, or payment of unpaid utility bills on an old utility account, so utilities can be turned on in the new unit. Before utilizing Program funds for "barrier removal," Abode will first work to match Eligible Tenants with other available community funding resources for security deposits (e.g., Seasons of Sharing) and only utilize Program funds if other resources, including the Tenant's own funds, are not available.

V. ADDITIONAL RESOURCES AND SUPPORT FOR PROPERTY OWNERS

An after-hours telephone hotline number and Abode staff support will be available through the Program for participating property owners. The Landlord Crisis Response Hotline is a toll-free number that property owners may call to obtain advice regarding urgent tenant related matters outside of regular business hours between 5:30 p.m. and 8:30 a.m. on weekdays and all day on weekends and holidays. In addition, in connection with each referral of an Eligible Tenant, Abode will assign a dedicated "Landlord Retention Specialist" who will be able to provide the property owner with additional support regarding tenant related issues.

EXHIBIT B

EXHIBIT "C"

HUD MANDATORY CONTRACT CLAUSES

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

proposal submitted before final payment of the contract.

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

EXHIBIT B

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

EXHIBIT B

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:

EXHIBIT B

(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.

EXHIBIT B

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

EXHIBIT B

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.