

Request for Proposal  
Grounds Maintenance-Landscaping



PROCUREMENT AND CONTRACT DOCUMENTS  
**GROUND MAINTENANCE-LANDSCAPING**

**REQUEST FOR PROPOSAL**

**RFP # 21-002 rev. a**

1776 S. West Temple

Salt Lake City, UT 84115

Housing Authority of Salt Lake City

[www.haslcutah.org](http://www.haslcutah.org)

**Date**

**March 8th, 2021**

Request for Proposal  
Grounds Maintenance-Landscaping

## Table of Contents

	Page Number
Title Sheet	1
Table of Contents	2
Proposal Timeline & Request for Proposal	3
Indefinite Delivery Indefinite Quantity (IDIQ) Contract	4
Submitting Your Proposal	5
Scope of Service	7
Service Locations	10-11
Submission Requirements	12
Evaluation Criteria	15

## ATTACHMENTS

Exhibit A	Contact Information Form
Exhibit B	Client Reference
Exhibit C	Proposal Form
Exhibit D	Certification Regarding Debarment or Suspension
Exhibit E	HUD Form 5369 B (Instructions to Offerors – Non Construction
Exhibit F	HUD Form 5369 C (Certifications and Representations of Offers)
Exhibit G	HUD-5370-C General Contract Conditions Non-Construction Contracts
Exhibit H	HUD-4010 Federal Labor Standards Provisions
Exhibit I	Davis-Bacon Requirements General Information
Exhibit J	Davis-Bacon Wage Determinations
Exhibit K	Section 3 General Information
Exhibit L	Section 3 Clause and Section 3 Statement HUD 24 CFR PART 135

Request for Proposal  
Grounds Maintenance-Landscaping

## REQUEST FOR PROPOSAL GROUNDS MAINTENANCE-LANDSCAPING

### PROPOSAL TIMELINE

Release of RFP	03/08/2021
Pre-Proposal Site Visit	HASLC requests that offerors view sites individually, with prior notice to HASLC, per COVID social distancing measures.
Questions Due	03/16/2021 by 3:00pm MST
Responses to Questions	03/19/2021 by 3:00pm MST
Proposals Submittals Due	03/26/2021 by 3:00pm MST
Award of Contract	03/31/2021
RFP Contact	Ben Lane Procurement and Contracts Manager 1776 South West Temple Salt Lake City, UT 84115 <a href="mailto:blane@haslcutah.org">blane@haslcutah.org</a> 801-428-0580 Ext 242

**Issued By:**  
**Housing Authority of Salt Lake City**  
1776 S. West Temple  
Salt Lake City, Utah 84115  
[www.haslcutah.org](http://www.haslcutah.org)

### PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The purpose of this request for proposal is to enter into a contract with The Housing Authority of Salt Lake City (HASLC), and a qualified Contractor(s) for the federally funded **Grounds Maintenance-Landscaping**, for the HASLC's twenty-eight (28) properties. These are federally funded services, HUD determined wage rates shall be paid to all employees of the CONTRACTOR or Sub-Contractor. Whenever State rates exceed the HUD determined wage rates, the HUD determined wage rates shall not be enforced. Minority, women, veteran and tribal owned businesses are encouraged to apply.

This RFP is designed to provide interested contractors with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a contractor's proposal content or exclude any relevant or essential data. Contractors are at a liberty and are encouraged to expand upon the scope of service and the specifications prior to contract execution.

The **Pre-submittal Meeting** will not be formally held, due to COVID social distancing measures. Interested proposers must contact HASLC, prior to viewing any sites individually. In addition and not exclusively, interested proposers may not enter HASLC structures during the RFP process. HASLC will give each contractor

Request for Proposal  
Grounds Maintenance-Landscaping

the opportunity, upon request, to visit the sites of the proposed work in order to fully acquaint themselves with existing conditions so that they may fully understand any difficulties or restrictions attending the execution of the work under the proposed contract. The Failure or omission to receive and examine any documents, forms instruments, addendum or other information, or to visit the site and acquaint oneself with conditions existing there shall in no way relieve any individual or organization from any obligation with respect to the proposal or to the contract. The submission of a proposal shall be taken as prima facie evidence of compliance with this section.

It is anticipated that this RFP may result in at least one **Indefinite Delivery Indefinite Quantity (IDIQ) Contracts** awarded. HASLC reserves the right to award to multiple offerors if necessary. Provided the proposals are reasonable and in the best interest of HASLC, and the Contractor has and/or will comply with all applicable local, state and federal laws and requirements.

Contractors shall be advised that prior to award of any contract, HASLC reserves the right to conduct a pre-award survey for the purpose of determining the Contractor's responsibility and capacity to perform the contract. This research may include review of sub-contract agreements, financial capacity, and quality of work performed on previous contracts.

HASLC reserves the right to reject any and all proposals, to waive any informality or irregularity in the RFP, whenever it is in the best interest of HASLC to do so. HASLC may use deductive alternates in the proposal procedure to comply with budget limitations.

### **BACKGROUND**

The Housing Authority of Salt Lake City (HASLC) is one of the largest providers of affordable housing in the State of Utah. HASLC owns 30 affordable housing properties, located throughout Salt Lake City. We proudly serve in excess of 30,000 people, most of whom are seniors, disabled individuals, and children.

As we see the demand for affordable housing increase, the limited affordable housing supply we currently have available is not enough to house the thousands of families in need. As a developer of sustainable affordable and market rate housing, over the years we have expanded our housing stock in an attempt to meet the county's growing needs. Working diligently to acquire, build, and renovate properties, we incorporate the concept of mixed income communities, build utilizing green technology, and provide recreational and educational facilities for everyone's use.

Additionally, we are here as a stepping stone for families who need help building a foundation for a brighter future. Therefore, aside from providing housing, we assist our customers with ways of becoming economically independent. In collaboration with our partners, we provide: family/individual case management and counseling; career training program integrity; homeownership assistance; to name a few.

We value our suppliers and contractors as partners in our mission to empower all individuals and families in need to achieve an enriched quality of life by providing housing opportunities and resources throughout Salt Lake City.

### **LENGTH OF CONTRACT**

Request for Proposal  
Grounds Maintenance-Landscaping

The **Indefinite Delivery Indefinite Quantity (IDIQ) Contracts** resulting for this RFP shall be effective for a period of one-year with four, one-year renewal options for a total of five-years.

### **SUBMITTING YOUR PROPOSAL**

Please email all questions to [blane@haslcutah.org](mailto:blane@haslcutah.org) by date referenced above and all submissions of proposals to the same email address and date referenced above. Proposals received after the deadline will be late and ineligible for consideration.

### **DISSUSSIONS WITH CONTRACTORS (ORAL PRESENTATION)**

An oral presentation by a contractor to clarify a proposal may be required at the sole discretion of the HASLC; however, a contract may be awarded based on the initial proposals received without discussion with the Contractor. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the Contractors' expense.

### **PROPRIETARY INFORMATION**

The proposal of the successful Contractor becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Contractors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the HASLC Purchasing Agent. All materials submitted become the property of HASLC and may be returned only at the HASLC option.

### **DISCLOSURE OF CRIMINAL AND CIVIL PROCEEDINGS**

HASLC reserves the right to request the information described herein from the Proposer selected for contract award. Failure to provide the information may result in a disqualification from the selection process and no award of contract to the Proposer. HASLC also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected Proposer also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of contract.

The selected Proposer may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Proposer will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

Request for Proposal  
**Grounds Maintenance-Landscaping**

In addition, the selected Proposer may also be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. “Legal proceedings” means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Proposer will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision “key employees” includes any individuals providing direct service to HASLC. “Key employees” do not include clerical personnel providing service at the firm’s offices or locations.

### **ANTI-HARASSMENT**

HASLC does not tolerate any form of harassment of our employees or residents. Harassment is defined as any unwelcome verbal, non-verbal, or physical conduct based on race, color, religion, sex (including pregnancy and gender identity), national origin, age (40 or older), disability (mental or physical), genetic information, sexual orientation, marital status, political affiliation, or status as a parent. If harassment is reported it may be grounds for immediate termination of contract.

### **DEBARMENT AND SUSPENSION**

Proposer certifies (using Exhibit F) that neither it nor its principals or subcontracts is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.

### **BOARD AND STAFF COMMUNICATIONS**

Under no circumstances may any member of the HASLC or any staff member other than the contact specified in Section II – Paragraph A, be contacted during this RFP process, by any entity intending to submit a response to this RFP. Failure to comply with this request will result in disqualification.

### **SECTION III BUSINESS CONCERN**

The Section III Program requires that recipients of HUD funds, to the greatest extent possible, provide job training, employment and contract opportunities for low or very-low income residents in connection with projects and activities in their neighborhoods.

### **SCOPE OF SERVICE**

Contractor shall perform and carry out the duties listed below, in a satisfactory, professional manner to enhance the premises of the HASLC’s twenty-eight (28) Properties. The contractor shall provide the management, supervision, manpower, equipment, transportation, materials, supplies and any other items needed to perform the **Grounds Maintenance-Landscaping**. This maintenance shall include but not be limited to application of fertilizers, herbicides, pesticides, watering, pruning, weeding, replacement plantings (as approved by HASLC), loose trash removal, mowing, leaf removal, permits, irrigation repairs and maintenance, spring and fall cleanup. All work shall be performed during normal business hours, Monday thru Friday.

Request for Proposal  
Grounds Maintenance-Landscaping

- A. Annual, Perennial, Shrub Beds and Playgrounds** – All bed areas surrounding trees, shrubs, annuals, perennial, buildings, playgrounds and etc. Shall be weeded as often as necessary to discourage unsightly weed growth, this may be done by hand and/or by using herbicides. Dead flowers removed whenever necessary to enhance the appearance of the bed. Weeds to be controlled by a combination of chemical applications manual removal. Scheduled to be performed March through October. Spot chemical applications to control emerging weeds. Manual hand weeding also to be performed to help control weeds not controlled by chemical applications. Maintain less than 15% weed coverage.
- B. Paved Surfaces** – Paved surfaces shall be weeded as often as necessary to discourage unsightly weed growth. This control shall be accomplished through the selective use of herbicides and mechanical means. Weeds to be controlled by a combination of chemical applications manual removal. Scheduled to be performed March through October. Spot chemical applications to control emerging weeds. Manual hand weeding also to be performed to help control weeds not controlled by chemical applications. Maintain less than 15% weed coverage.
- C. Stone/Mulch Areas** – Grass and weeds shall be controlled with suitable herbicides in all gravel, mulch and ornamental stone areas. Should any unsightly weeds remain after being treated with herbicide, the dead weeds shall then be removed by hand.
- D. Pruning and Trimming** – The contractor shall keep shrubs pruned to their intended form. Hedges shall be trimmed frequently to keep pace with growth rate of the plantings. All winter damage is to be removed from trees and shrubs in March of each year. Early flowering trees and shrubs shall be pruned immediately after flowering to encourage next year's bud growth. A certified Arborist shall supervise all pruning. Clean-up of all clippings and debris required and not considered an added expense to HASLC.
- E. Mulch** – The mulch shall be consistent with current mulch in place, and consistent in nature. The product shall be free of sand, dirt, gravel or any other material inconsistent with the purpose of the mulch. Existing mulched beds, shall be maintained at a minimum mulch depth of two (2) inches, and a maximum mulch depth of three (3) inches. Playground areas shall be maintained at a minimum mulch depth of twelve (12) inches.
- F. Spring and Fall Cleanup** – Spring and Fall clean-up shall consist of one (1) site visit in April and one (1) site visit in November. Spring clean-up to be completed by April 30th. Fall clean-up scheduled to be completed by October 24th. The site visits shall include a general clean up, the removal and disposal of all accumulated debris. This debris shall include, but not be limited to: leaves, pine cones, pine needles, paper, trash, dead plant debris, clean of rain gutters, and etc. all collected debris is to be removed from the site at no additional charge to HASLC. Examine all trees, shrubs, ground covers, and turf areas, for existing or potential health problems, and provide HASLC with written recommendations.
- G. Aeration**- The Contractor shall aerate all turf areas once per year in October or November.

Request for Proposal  
Grounds Maintenance-Landscaping

- H. Weekly Mowing, Trimming and Clean-Up** - The Contractor shall mow turf areas once every seven (7) days, weather permitting. All lawns and grassy areas shall be mowed to a maximum height of three (3) inches or less to present a neat and attractive appearance, grass clippings do not need to be bagged except on the first and last mowing of the season.
- Pick up and remove trash and debris from the community sites include parking lots, dumpster areas, fence lines and lawns prior to mowing.
  - Remove all grass clippings from sidewalks, driveways, building entries, doorways and parking areas at community sites. All grass and debris must be picked up and disposed of properly.
  - All areas where turf meets barricades, fences, trees, sewer openings, landscaping or other protrusions/fixtures must be neatly trimmed at each visit. Special care must be taken while trimming around trees and Shrubs. “Weed-eater” type trimmers must not be used adjacent to trees and shrubbery.
  - Hard edging of all sidewalks, driveways and curbs once per season and as needed.
  - Weekly soft trimming all edges adjacent to shrub beds, trees, and buildings, tree trunks to be protected from damage.
  - Estimated twenty-six (26) weekly cuts during the term of the Contract. Season shall be approximately April through October. Only mowing equipment that will not damage the grounds or the irrigation systems may be used on the Properties.
- I. Fertilization and Herbicide** – All turf and flower beds areas shall be fertilized three (3) times per year, scheduled at the appropriate time during the season using appropriate formulation for the season and the turf condition with less than 15% weed coverage. Scheduled to be completed between April and September. First application to contain a pre-emergent. Subsequent 3 applications to contain high quality complete slow release fertilizer (delivered at 200 lbs./acre). All turf and flower beds areas shall be treated with herbicide for the purpose of controlling weeds during the season using the appropriate chemicals. Shrub bed fertilizing to be done at appropriate time according to the fertilizer directions and plant needs. Herbicides - Applications to be done using industry standards for safety adhering to all government regulations (SDS, licensing, etc.). Scheduled to be completed between April and September. Include up to 3 gallons per week, post-emergent herbicide for selective control of broadleaf weeds as needed (per campus). Pre-emergent and crab grass control applied in Spring.
- J. Irrigation Systems** – Irrigation system to be activated, monitored and maintained, and winterized. Spring- Reactivate irrigation. Check timer, valves & sprinklers to ensure efficient & effective irrigation, adjust irrigation system and clocks during the growing season according to the Irrigation Standards prepared by The Utah Irrigation Association. In Season- Monitor, modify & maintain system to remain efficient and effective. Fall- Winterize irrigation system to ensure no damage over the winter. Does not include repairs.



Request for Proposal  
Grounds Maintenance-Landscaping

- K. Insecticides** – If any plant materials show signs of insect infestation or damage, the Contractor shall provide a written report and a cost quote for treatment at no additional charge to the appropriate HASLC representative. Based on the report and quotation HASLC may or may not proceed with the project. HASLC will issue a Purchaser Order prior to the start of each insecticide job.
- L. Irrigation Systems Repairs and Construction** – Contractor shall provide a written cost quotation for each job at no additional charge to the appropriate HASLC representative. Based on the quotation HASLC may or may not proceed with the project. HASLC will issue a Purchaser Order prior to the start of each repair job (except for emergency situations). Response Time: Standard response time shall be within three (3) calendar days. Emergency response time must be “Same Day”.
- M. Replacement Plantings** – The contractor shall report to HASLC any plant material not exhibiting normal growth and vigor. If it has been determined that the material is beyond reviving, a written report recommending replacement shall be given at no additional charge to the appropriate HASLC representative. This report shall include: Identify the location, size and type of plant, Identify the reason for the decline and cost of replacement. Based on the report and quotation HASLC may or may not proceed with the project. HASLC will issue a Purchaser Order for the replacement prior to the start of each job.
- N. New Landscaping Projects** – Contractor shall provide a written cost quotation for Landscaping Projects at no additional charge to the appropriate HASLC representative. Based on the quotation HASLC may or may not proceed with the project. HASLC will issue a Purchaser Order for new landscaping projects prior to the start of each job.

**Other Requirements**

- Prior to the inception of the Contract, Contractor shall provide agency with a schedule showing the dates and times each community site will be serviced throughout the term of the Contract.
- Provide documentation indicating where/when the work has been completed on a weekly basis. Reports will be submitted to the appropriate HASLC representative.
- Contractors are responsible for any and all damages to HASLC community site property, including but not be limited to all sidewalks, buildings, trees, shrubs, sprinklers, resident property, etc. In the event of any such damage, contractor shall immediately report such damage to the respective Community Site Manager. Sprinklers that are damaged due to contractors operations must be repaired or replaced by the contractor promptly at no expense to HASLC or its Residents. The cost shall be withheld from payments(s).
- All work shall be inspected and approved by HASLC representatives
- The Contractor shall correct all complaints. All complaints, both minor and major, shall be investigated the same work day. Any complaint which cannot be corrected during the same work day or which is considered unreasonable or which cannot be dealt with for reasons beyond the Contractors control shall be specifically reported to the appropriate HASLC representative.

Request for Proposal  
Grounds Maintenance-Landscaping

- The Contractor shall supply all SDS for all chemicals being used to the appropriate HASLC representative.
- The Contractor shall comply with all Federal, OSHA, State, County and City statutes, ordinances, regulations, health regulations, or other legal requirements.
- The personnel employed by the Contractor shall be capable employees, trained and qualified.
- All Contractor personnel are required to wear uniforms identifying them as employees of the contractor. This requirement shall apply upon entering a HASLC property and at all times while on duty.
- Only employees or designated representatives of the contractor are allowed on properties during performance of duties.
- The Contractor shall not subcontract the service to another individual or contractor, without approval by the appropriate HASLC representative prior of any work being performed.
- The Contractor shall provide an emergency telephone number where they can be reached during normal operating hours and after normal operation hours.

### **SERVICE LOCATIONS**

Contractor will provide timely, consistent and cost effective, grounds maintenance services for the following twenty-eight (25) locations located in Salt Lake City, UT:

Phillips Plaza	660 S. 300 East
Romney Plaza	475 E. 900 South
City Plaza	1992 S. 200 East
Rendon Terrace	158 N. 600 West
Cedar Crest	1926 S. West Temple
Sunrise Metro	580 S. 500 West
Valor Apts	715 E. 700 South

Request for Proposal  
Grounds Maintenance-Landscaping

Freedom Landing	1900 W. North Temple
Faultline	1025 E. 400 South
Redwood Road	257 N. Redwood Road
330 North	330 N. 800 West
Pacific Ave	1411-1473 Pacific Ave
Pacific Heights	1420-1464 W. 500 S.
Central City	640 S. 400 East
771 S.	771 South 200 East
Pamela's Place	525 South 500 West
9th East Lofts	444 South 900 East
Canterbury	1841 West Morton Drive
Ben Albert	130 South 500 East
Riverside	610 South 900 West
Red House Property	1760 South West Temple
Duplex's	1588 - 1594 South West Temple
Fairmont Fourplex	846 E. Fairmont Circle
West Temple Madman (once a month)	1176 South West Temple
Main Office	1776 South West Temple

Contract award includes the twenty-eight (25) properties noted above, and may be modified to include any additional properties during the contract period. HASLC/HAME reserves the right to remove properties as it sees fit.

Request for Proposal  
Grounds Maintenance-Landscaping

## **SUBMISSION REQUIREMENTS**

Forms included within this Request for Proposal must be included with proposal, in addition to HUD form 5369-B and 5369-C. Failure to submit mandatory forms may result in rejection of the proposal.

### **Collusion**

Proposer, by submitting a proposal, hereby certifies that no officer, agent, or employee of HASLC has a pecuniary interest in this Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind with any other proposer; and that the proposer is competing solely in its own behalf without connection with, or obligation to any undisclosed person or company.

### **Disputes**

In case of any doubt or differences of opinions as to the participation sought hereunder, or the interpretation of the provisions of the RFP, the dispute process shall apply.

Contractors may appeal the recommended award, provided the appeal is in writing, contains the RFP number, is delivered to the address listed in Section II – Paragraph A of this RFP, and is submitted according to the time requirements listed below. The following shall apply to protests (unless otherwise specified, this section will use the term “protest” to also include disputes and appeals):

Solicitation: Contractors may protest a solicitation issued by HASLC. It must be received by the Purchasing Agent before the bid or proposal submittal deadline, or it will not be considered.

Award RFP: Any protest against the award of a contract based on an RFP must be received by the Chief Finance Officer (CFO) and Contracts no later than two (2) full business days after the bid submittal deadline, or before award of the contract, whichever is earlier, or the protest will not be considered.

Award RFP/RFQ: Any protest against the award of a contract based on an RFP or RFQ or appeal of a decision by HASLC to reject a proposal, must be received by the Chief Finance Officer (CFO) and Contracts within three (3) business days after notification to an unsuccessful proposer that they were not selected, or the protest will not be considered.

Rejection of Bid: Any protest of a decision by HASLC to reject a bid submitted in response to an RFP must be received by the Chief Finance Officer (CFO) and Contracts within two (2) business days after being notified in writing of HASLC’s decision, or the appeal will not be considered.

A written response will be directed to the appealing Contractor within fourteen (14) calendar days of receipt of the appeal, advising of the decision with regard to the appeal and the basis for the decision. The decision of HASLC shall be final and binding upon all parties.

## **INSURANCE REQUIREMENTS**

**Proof of Insurance**, shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract. The Contractor shall require all subcontractors used in the performance of this contract to name HASLC as an additional insured. Following are the standard types and minimum amounts.

Request for Proposal  
Grounds Maintenance-Landscaping

- ☒ **General Liability:** \$1,000,000; per occurrence for bodily injury, personal injury and property damage liability; *HASLC Additional Insured* or,
- ☐ **Commercial General Liability:** \$3,000,000; combined single limit bodily and property damage liability per occurrence; *HASLC additional named insured.*
- ☒ **Comprehensive Automobile Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and aggregate; *HASLC Additional Insured.*
- ☐ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- ☐ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- ☒ **Workers' Compensation:** statutory limits or,
- ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of Utah.
- ☐ **Environmental Liability:** \$500,000; per occurrence and aggregate; *HASLC Additional Insured.*
- ☐ **Owner's Liability:** 100% of insurable value of the work, Builder's Risk, Extended coverage for Vandalism and Malicious Mischief, if required; *HASLC additional named insured.*
- ☐ **Fire Insurance with Extended Coverage:** 100% of insurable value of the work; Builder's Risk, Extended coverage including Vandalism and Malicious Mischief, if required; *HASLC Additional Insured.*

Failure to provide proof of insurance or failure to maintain insurance as required in this bid, or by law; are grounds for immediate termination of the contract. In addition, the awarded bidder should be liable for all re-procurement costs and any other remedies under law.

## **IDEMNIFICATION AND INSURANCE REQUIREMENTS**

### **1. Indemnification**

The Contractor agrees to indemnify, defend and hold harmless HASLC and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by HASLC on account of any claim therefore, except where such indemnification is prohibited by law.

### **2. Additional Named Insured**

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming HASLC and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

Request for Proposal  
Grounds Maintenance-Landscaping

### 3. Waiver of Subrogation Rights

The Contractor shall require the carriers of the above required coverages to waive all rights of subrogation against HASLC, its officers, employees, agents, volunteers, Contractors and subcontractors.

### 4. Policies Primary and Non-Contributory

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by HASLC.

### 5. Proof of Coverage

The Contractor shall immediately furnish certificates of insurance to HASLC Procurement Department administering the Contract evidencing the insurance coverage, including the endorsements above required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Contractor shall furnish certified copies of the policies and all endorsements.

### 6. Insurance Review

The above insurance requirements are subject to periodic review by HASLC. HASLC's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of HASLC. In addition, if the Risk Manager determines that heretofore, unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized but not required, to change the above insurance requirements, to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against HASLC, inflation, or any other item reasonably related to HASLC's risk. Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

## **PROPOSAL RESPONSE FORMAT**

1. **Executive Summary.** The one or two page executive summary is to briefly describe the Contractors' proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the Contractor. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests must be identified in this section. **Contractors Proposal** must be complete, signed and dated.
2. **Statement of Qualifications.** The Statement of Qualifications is a short document that indicates the experience and qualifications of the Contractor, and the project team key individuals as identified.
  - It should include information on similar projects that have been completed by the Contractor, and the project team individuals. When listing similar projects include information to indicate the dates, size, firm worked for at the time and what the responsibility of the individual was on the project.

Request for Proposal  
Grounds Maintenance-Landscaping

- Include the experience and special qualifications of the team members that are applicable to this project and/or are part of the Contractor Team.

**3. Detailed Technical Proposal.** This section should constitute the major portion of the proposal and must contain at least the following information for each zone:

- A complete narrative of the Contractors' assessment of the Service to be performed, the contractor ability and approach, and the resources necessary to fulfill the Scope of Service. This should demonstrate the contractors' understanding of the desired overall performance expectations. Clearly indicate any options or alternatives proposed.
- A specific response to the Scope of Service in the RFP.

**4. Cost Proposal Form.** Cost will be evaluated independently from the Technical Proposal and the Cost Proposal **shall** enumerate all costs associated with the service to be provided.

- The Cost Proposal, bearing original signatures, must be typed or handwritten in ink on the Cost Proposal Form provided in the procurement documents and submitted in a sealed envelope at the location specified prior to the deadline
- Before submitting a Cost Proposal, each Contractor shall carefully examine the RFP, shall visit the work sites, shall fully inform themselves as to all existing conditions and limitations, and shall include in the proposal the cost of all items required by the RFP.
- Quoted Work shall be a fixed percentage markup that will be applied to the cost for the Contractor actual labor plus burden cost, material costs, and equipment costs. If the Contractor is allowed to perform the work, this work must be billed for actual cost incurred plus the percentage markup. No billing rates will be allowed. Quoted Work will be subject to audit.
- The more competitive overall cost will achieve a higher score. A summary of each cost proposal will be made available to the selection committee just prior to the interviews.

### **PROPOSAL EVALUATION CRITERIA**

A committee will evaluate the proposals against the following weighted criteria. Each area of the evaluation criteria must be addressed in the proposal.

<b><u>WEIGHT</u></b>	<b><u>EVALUATION CRITERIA</u></b>
<b>25%</b>	Technical Proposal demonstrated ability to meet the Scope of Service.
<b>20%</b>	Statements of Qualifications
<b>40%</b>	Cost Proposal Form.
<b>10%</b>	Section III
<b>5%</b>	Minority/Women Owned Business

Request for Proposal  
Grounds Maintenance-Landscaping

### Cost Proposal Form

NAME OF PROPOSER \_\_\_\_\_ DATE \_\_\_\_\_

To: Housing Authority of Salt Lake City  
1776 S West Temple  
Salt Lake City, Utah 84115

The undersigned, responsive to the "Notice for Grounds Maintenance Services" and in accordance with the "Request for Proposals" for the **Grounds Maintenance Services** propose fee at the price stated below. This price is to cover all expenses incurred in performing the Scope of Services as outlined in our proposal of which this proposal is a part:

I/We acknowledge receipt of the following Addenda: \_\_\_\_\_

We have listed the following information for your convenience in responding to this RFP. If the proposer needs to add additional line items or information to better respond to the RFP, Please attach to this document. If no additional forms have been attached, it will be understood that the costs listed below are for the scope of services within the Contractors Proposal.

<u>Description</u>	<u>Unit of Measure</u>	<u>Unit Cost</u>	<u>Total</u>
A. Annual, Perennial, Shrub Beds and Playgrounds Weeding.	_____	\$ _____	\$ _____
B. Paved Surfaces	_____	\$ _____	\$ _____
C. Stone/Mulch Areas	_____	\$ _____	\$ _____
D. Pruning and Trimming	_____	\$ _____	\$ _____
E. Mulch	_____	\$ _____	\$ _____
F. Spring and Fall Cleanup	_____	\$ _____	\$ _____
G. Aeration	_____	\$ _____	\$ _____
H. Weekly Mowing and Trimming	_____	\$ _____	\$ _____
I. Fertilization and Herbicide	_____	\$ _____	\$ _____
J. Irrigation Systems	_____	\$ _____	\$ _____
K. Insecticides	<u>Quote</u>	\$ N/A	\$ <u>Quote</u>
L. Irrigation Systems Repairs	<u>Quote</u>	\$ N/A	\$ <u>Quote</u>
M. Replacement Plantings	<u>Quote</u>	\$ N/A	\$ <u>Quote</u>
N. New Landscape Projects.	<u>Quote</u>	\$ N/A	\$ <u>Quote</u>
<b>TOTAL</b>			\$ _____

**Quoted Work.** I/we agree to add no more than \_\_\_\_% to our labor and material costs to perform the work.

The undersigned Contractor's License Number for Utah is \_\_\_\_\_.

Type of Organization:

\_\_\_\_\_  
(Corporation, partnership, Individual, etc.)

\_\_\_\_\_  
Name of Proposer

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Address



Request for Proposal  
**Grounds Maintenance-Landscaping**

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Request for Proposal  
Grounds Maintenance-Landscaping

**Exhibit A – Contact Information Form**

To: Ben Lane, Procurement and Contract Manager  
Phone: 428-0580 Ext 242  
Email: [blane@haslcutah.com](mailto:blane@haslcutah.com)

This document is to acknowledge that we are in receipt of RFP # HASLC 21-002 Grounds Maintenance Services and have noted our intention to bid.

Vendor Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**I PLAN TO SUBMIT A BID.**

- ☐ Yes, I will be submitting a bid.
- ☐ Maybe, I need to research and get more information (contact HASLC-information listed above)

**NO BID.** Indicate *any* of the following. We:

- ☐ Do NOT desire to be retained on the vendor list.
- ☐ Desire to be retained on the vendor list, but decline to bid based on the following:  
☐ Cannot comply with specifications/scope of work, Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ Cannot meet delivery requirements, Explain: \_\_\_\_\_  
\_\_\_\_\_
- ☐ Do not regularly provide this type of product/service
- ☐ Other, Explain: \_\_\_\_\_
- ☐ Please update my information as listed above.

**HOW YOU FOUND OUT ABOUT THE BID.** Indicate *any* of the following. We:

- ☐ Checked the agency website
- ☐ Received notice by fax or e-mail
- ☐ Newspaper Ad, please list paper: \_\_\_\_\_
- ☐ Trade Publication, please list: \_\_\_\_\_
- ☐ Plan Room, please list: \_\_\_\_\_
- ☐ Other, Explain: \_\_\_\_\_

Request for Proposal  
Grounds Maintenance-Landscaping

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**BID Form**

**HASLC wishes to enter into contract. Please complete the following form and include with your Bid. (Form can be typed or handwritten.)**

**NAME of VENDOR:** \_\_\_\_\_

**CONTACT PERSON for BILLING:**

\_\_\_\_\_

**EMAIL of BILLING CONTACT:** \_\_\_\_\_

**PHONE NUMBER of BILLING CONTACT:**

\_\_\_\_\_

**BILLING ADDRESS:** \_\_\_\_\_

**TAX IDENTIFICATION NUMBER (TIN):**

\_\_\_\_\_

**CONTACT PERSON for ONSITE WORK:**

\_\_\_\_\_

**ONSITE CONTACT PHONE NUMBER:**

\_\_\_\_\_

**PRICING:**

**HASLC will enter into a fixed price contract (Stipulated Sum). Please provide a total cost estimate as an attachment to this sheet, to establish a maximum amount for reimbursement. The contractor (prime) cannot exceed the maximum without a HASLC-approved modification. For federal regulations on fixed price contracts, please see FAR subpart 16.201.**

**With the total cost estimate, please include an itemized listing of anticipated costs, including materials, labor, overhead and profit, with each listed separately.**

Request for Proposal  
Grounds Maintenance-Landscaping

**Exhibit B – Client Reference**

**CURRENT CLIENT REFERENCES (REQUIRED) – RFP# HASLC2020-006–GROUNDS MAINTENANCE**

*Submit this form with the BID, failure to do so is grounds for disqualification.*

Company	
Address	
City, ST, Zip	
Fax/Phone/Email	
Contact Name/Title	
Type of Engagement	
<hr style="border: 1px solid black;"/>	
Company	
Address	
City, ST, Zip	
Fax/Phone/Email	
Contact Name/Title	
Type of Engagement	
<hr style="border: 1px solid black;"/>	
Company	
Address	
City, ST, Zip	
Fax/Phone/Email	
Contact Name/Title	
Type of Engagement	
<hr style="border: 1px solid black;"/>	
Company	
Address	
City, ST, Zip	
Fax/Phone/Email	
Contact Name/Title	
Type of Engagement	
<hr style="border: 1px solid black;"/>	
Company	
Address	
City, ST, Zip	
Fax/Phone/Email	
Contact Name/Title	
Type of Engagement	

Bidder's Company Name	
Legal Structure (corp./partner/proprietor)	
Principle Office Address	
City, ST, Zip	
Phone Number & Fax Numbers	
Email	
Federal Employer Identification Number	
Title of Person Authorized to Sign	

Request for Proposal  
**Grounds Maintenance-Landscaping**

Print Name of Person Authorized to Sign \_\_\_\_\_

Date Signed and Authorized Signature \_\_\_\_\_

Request for Proposal  
Grounds Maintenance-Landscaping

**Exhibit C - Proposal Form**

Vendor Name: \_\_\_\_\_

1. The undersigned, having familiarized themselves with the local conditions affecting the cost of the work, and with the Specifications, if any thereto, hereby proposes to furnish all labor, materials, equipment and services required to provide such service(s) described in the Scope of Work in accordance therewith.
2. In submitting this proposal it is understood that the right is reserved by the Housing Authority of Salt Lake City to reject any and all proposals. If written notice of the acceptance of this proposal is mailed, telegraphed, faxed, or delivered to the undersigned within thirty (30) days after the opening thereof, or at any time thereafter before this proposal is withdrawn, the undersigned agrees to a contract/agreement in the prescribed form and furnish any required insurance requirements within ten (10) days after the contract is presented to him for signature.

**NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.**

Date \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Official Address)

\_\_\_\_\_  
(Contractors State License Number)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(By)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Telephone Number)

Request for Proposal  
Grounds Maintenance-Landscaping

**Exhibit D – Certification Regarding Debarment or Suspension**

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all Proposers submitting a response to this RFP:

1. The Proposer certifies, to the best of its knowledge and belief, that neither the Proposer nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or non-procurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Non-procurement Programs* issued by the General Services Administration.
2. “Principals,” for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Proposer shall provide immediate written notice to the HASLC Chief Finance Officer (CFO) if, at any time prior to award, the Proposer learns that this certification was erroneous when submitted or has become erroneous by reason of changes circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Proposer rendered an erroneous certification, in addition to other remedies available to the HASLC government, the HASLC Chief Finance Officer (CFO) may terminate the contract resulting from this solicitation for default.
5. Proposer affirms that it has no record of recent unsatisfactory performance with HASLC, during the past twenty-four (24) months at a minimum.

**Printed Name of  
Representative:**

---

**Title:**

---

Request for Proposal  
**Grounds Maintenance-Landscaping**

**Signature:**

---

**Exhibit E – HUD FORM 5369 B (INSTRUCTIONS TO OFFERORS – NON-CONSTRUCTION)**

Document on following page



Request for Proposal  
**Grounds Maintenance-Landscaping**

Request for Proposal  
Grounds Maintenance-Landscaping

## 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.

Request for Proposal  
Grounds Maintenance-Landscaping

(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:]

Request for Proposal  
**Grounds Maintenance-Landscaping**

**Exhibit F – HUD FORM 5369 C (CERTIFICATIONS AND REPRESENTATIONS OF OFFERORS)**

Document on following page

Request for Proposal  
Grounds Maintenance-Landscaping

## 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/offers represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offers, the bidder/offers:

- (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/offers shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offers 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/offers 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/offers 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/offers 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/offers, directly or indirectly, to any other bidder/offers 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/offers 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/offers'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/offers's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offers'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

Request for Proposal  
Grounds Maintenance-Landscaping

(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:

Request for Proposal  
Grounds Maintenance-Landscaping

**Exhibit G – HUD FORM 5370 (GENERAL CONDITIONS FOR NON-CONSTRUCTION  
CONTRACTS)**

Document on following page



Request for Proposal  
Grounds Maintenance-Landscaping

## General Conditions for Non-Construction Contracts

### Section I – (With or without Maintenance Work)

## U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2017)

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 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 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.



Request for Proposal  
Grounds Maintenance-Landscaping

- (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

Request for Proposal  
Grounds Maintenance-Landscaping

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 therefrom, 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:

Request for Proposal  
Grounds Maintenance-Landscaping

(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.

Request for Proposal  
Grounds Maintenance-Landscaping

**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

Request for Proposal  
Grounds Maintenance-Landscaping

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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.

Request for Proposal  
**Grounds Maintenance-Landscaping**

**Exhibit H - HUD-4010 (Federal Labor Standards Provisions)**

Document on following page



Request for Proposal  
Grounds Maintenance-Landscaping

## Federal Labor Standards Provisions

## U.S. Department of Housing and Urban Development Office of Labor Relations

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (I) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). 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 classification and wage rates conformed under 29 CFR 5.5(a)(1)(II) and the Davis-Bacon poster (WH-1321) 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.

(II) (a) 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 and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(II)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(III) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(IV) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

Request for Proposal  
Grounds Maintenance-Landscaping

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee 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. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (I) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(II) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;



Request for Proposal  
Grounds Maintenance-Landscaping

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(I)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(III) The contractor or subcontractor shall make the records required under subparagraph A.3.(I) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(I) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or 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 the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(II) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

Request for Proposal  
Grounds Maintenance-Landscaping

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(III) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**6. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**8. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (I) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(II) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(III) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) 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 the individual 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.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, 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 such 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 clause set forth in subparagraph (1) of this paragraph, 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 the clause set forth in subparagraph (1) of this paragraph.

Request for Proposal  
Grounds Maintenance-Landscaping

(3) **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 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 other Federal contract with the same prime contract, 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 clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. **Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Request for Proposal  
**Grounds Maintenance-Landscaping**

**Exhibit I - Davis-Bacon Requirements General Information**

Document on following page

Request for Proposal  
Grounds Maintenance-Landscaping

## **DAVIS BACON REQUIREMENTS GENERAL INFORMATION**

### **What are prevailing wages and who gets them?**

The Davis Bacon Act requires that workers receive not less than the prevailing wages being paid for similar work in the locality. Prevailing wage rates are computed by the Department of Labor and issued in the form of a Federal Wage Determination.

The Federal Wage Determination lists each classification of worker you will use on a construction project and the rates you must pay.

### **How can you use workers not listed on the Wage Determination?**

Upon receipt of the Wage Determination, review it to make sure ALL classifications/subclassifications you intend to use are covered. If classifications you intend to use are not included, request them immediately (using exhibit 2 form).

If you discover a classification needed after work begins, follow this procedure: Report your suggested classification and rate to the local Davis Bacon representative (exhibit 3), along with supporting data. This information will be submitted to HUD who will in turn submit the information to the Department of Labor (as long as the rate seems reasonable). The Denver field office can generally provide verbal approval for a suggested rate in a fairly short period of time.

### **Can you hire anybody you want?**

Yes, with two exceptions:

- You cannot hire any person under the age of 16.
- You cannot hire any contractor or subcontractor who has been suspended or debarred.

### **What do you have to tell your workers about their wages?**

You must display the Secretary of Labor's **Wage Poster** (exhibit 4) and **Wage Determination** (exhibit 1) in a conspicuous place at the job site. (Failure to do this can be interpreted as a breach of contract.) In addition, all contractors and subcontractors must allow their employees to be interviewed, on site, regarding their rates of pay and knowledge of applicable federal requirements.

### **What if you want to hire apprentices or trainees?**

If you want to hire apprentices or trainees and to pay them less than journeymen wages, they must be enrolled in an apprenticeship or training program **approved by the Department of Labor**. Written evidence of their enrollment must be submitted to Salt Lake County. The terms for hiring apprentices or trainees must be set forth in the pay schedule accompanying the certificate approving the program (exhibit 5).

You must pay trainees or apprentices no less than the percentage of journeymen wages specified for the apprentice's stage of training.

Request for Proposal  
Grounds Maintenance-Landscaping

**When do you have to pay overtime?**

You must pay time and a half for all hours worked in excess of 40 per week.

**When do you have to pay fringe benefits?**

If the wage determination lists fringe benefits, you must pay to the employee in cash or fringe benefits an amount which equals the total of the basic rate and fringes appearing on the determination. Any combination of cash payments and fringes is allowed provided the part you provide in benefits is:

- Explained to all employees in writing.
- Administered through a third party or through an actuarially sound, enforceable, unfunded commitment.
- If the employees work overtime, the premium must be computed on the basic hourly rate shown on the determination, even if the employer pays less than this amount in cash because of increased fringes.

**What if a worker disputes the wage rate or classification on your payroll?**

If an employee thinks he is improperly classified or underpaid, and you cannot agree on the matter, you must report the dispute to Salt Lake County Community Resources and Development (CRD) **in writing**. CRD will work with you to settle the matter informally. If the matter cannot be settled at the local level, a HUD representative may be consulted for assistance.

Note: You must refrain from firing or discriminating against anyone because they complain about their wage rate or classification.

**What information do you have to report to HUD/SL County?**

- Prime Contractor's Certified Payroll (exhibit 6)
- Names, other than owner or officer, authorized to sign payrolls for contractor/subcontractor, if any (exhibit 7)
- Contractors certification (exhibit 8)
- Subcontractors Certification (exhibit 9)
- Prime Contractors Subcontractor List

With the exception of certified payrolls, all Certifications should be submitted to CRD within 3 weeks of the start up on the project.

**Reports to be submitted on a bi/weekly basis:**

- Certified payroll reports for Prime and Sub Contractors
- Weekly report of Sub Contractors on site

Request for Proposal  
**Grounds Maintenance-Landscaping**

**Exhibit J - Davis-Bacon Wage Determinations**

Document on following page

Request for Proposal  
Grounds Maintenance-Landscaping

"General Decision Number: ND20200003 02/28/2020

Superseded General Decision Number: ND20190003

State: North Dakota

Construction Type: Residential

Counties: Burleigh, Grand Forks and Morton Counties in North Dakota.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor



Request for Proposal  
Grounds Maintenance-Landscaping

requirements and worker protections under the EO is available  
at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/03/2020
1	02/28/2020

BRND0004-002 05/01/2018

	Rates	Fringes
BRICKLAYER.....	\$ 32.68	13.42

\* ELEC0714-004 07/01/2019

BURLEIGH AND MORTON COUNTIES:

	Rates	Fringes
ELECTRICIAN.....	\$ 34.46	10.90+10.5%

ELEC1426-010 06/01/2019

GRAND FORKS COUNTY:

	Rates	Fringes
ELECTRICIAN		
CABLE SPLICER.....	\$ 33.20	11.5%+10.80
ELECTRICIAN.....	\$ 30.72	13.23

SFND0669-001 04/01/2019

	Rates	Fringes
SPRINKLER FITTER.....	\$ 34.02	19.29

SUND2000-011 04/11/2000

	Rates	Fringes
CARPENTER		

Request for Proposal  
Grounds Maintenance-Landscaping

CARPENTERS (including the  
installation of form work  
& cabinets, excluding the  
installation of Drywall &  
Batt & Blown Insulation)....\$ 10.90

CEMENT MASON/CONCRETE FINISHER...\$ 9.85

DRYWALL FINISHER/TAPER.....\$ 13.61            1.06

DRYWALL HANGER.....\$ 14.64

Insulator, Batt & Blown.....\$ 8.00

Laborers:

Common.....\$ 8.39

Landscape Worker.....\$ 8.41

PAINTER

PAINTERS, excluding  
Drywall Finishing.....\$ 10.00

PLUMBER

PLUMBERS, including HVAC  
piping.....\$ 11.42

Power equipment operators:

Backhoe.....\$ 18.10

Loader.....\$ 18.10

ROOFER.....\$ 8.13

Sheet Metal

Sheet Metal Work (HVAC  
duct only).....\$ 12.62

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WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave

Request for Proposal  
Grounds Maintenance-Landscaping

for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this

Request for Proposal  
Grounds Maintenance-Landscaping

classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

Request for Proposal  
Grounds Maintenance-Landscaping

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Request for Proposal  
Grounds Maintenance-Landscaping

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

Request for Proposal  
**Grounds Maintenance-Landscaping**

**Exhibit K - Section 3 General Information**

Document on following page

Request for Proposal  
Grounds Maintenance-Landscaping

## **Frequently Asked Questions and Answers About Section 3 of the Housing & Urban Development Act of 1968**

### **General Questions**

#### **Applicability**

#### **Consistency with Other Laws**

#### **Recipient Responsibilities**

#### **Section 3 Preference**

#### **Economic Opportunities/Numerical Goals**

#### **Recordkeeping and Reporting**

#### **Section 3 Complaints**

### **GENERAL QUESTIONS**

#### **1. What is Section 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

#### **What does the term “Section 3 resident” mean?**

A “section 3 resident” is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended.

#### **What does the term Section 3 Business Concern mean?**

Section 3 business concerns are businesses that can provide evidence that they meet one of the following:

- 51 percent or more owned by Section 3 residents; **or**
- At least 30 percent of its fully time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; **or** Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

#### **How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?**

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct



Request for Proposal  
Grounds Maintenance-Landscaping

new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender. Please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, to learn more about these programs.

**How is "low-income" determined?**

The term "low-income" is used in the Section 3 regulation to include both low- and very low-income individuals. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

**Define "metropolitan area" and "Non-metropolitan County."**

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget. Non-metropolitan County means any county outside of a metropolitan area.

**What is a "new hire"?**

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created during the expenditure of Section 3 covered financial assistance.

**What is a Section 3 covered project?**

A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

**Who is considered a recipient of Section 3 funding?**

A recipient is any entity which receives Section 3 covered assistance, directly from HUD or from another recipient. It does not include contractors or any ultimate beneficiary under the HUD program to which Section 3 applies.

Is a non-profit organization considered a "business" for the purposes of Section 3?

Yes. A non-profit organization is a legitimate business. The non-profit organization must meet the criteria of a Section 3 business concern as defined in 24 CFR Part 135.5 in order to receive Section 3 preference.

**What is a Service Area?**

The Service area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

Request for Proposal  
**Grounds Maintenance-Landscaping**

**APPLICABILITY**

- What is Section 3 covered assistance?
- Public and Indian housing development, operating or capital funds; **or**
- Other housing assistance and community development assistance expended for housing rehabilitation, housing construction or other public construction projects, such as: CDBG, HOME, 202/811, Lead-Based Paint Abatement, etc.

**Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?**

Public Housing Authorities regardless of size or number of units

Section 3 also applies to recipients of \$200,000 or more of the following Housing and/or Community

Development financial assistance:

HOPE VI funding

Community Development Block Grant (CDBG) funding

Community Development Block Grant Programs for Indian Tribes and Alaska Native Villages

HOME Investment Partnership funding

Self-Help Homeownership Opportunity Programs

Economic Development Initiatives assistance

Brownfields Economic

Request for Proposal  
Grounds Maintenance-Landscaping

**Exhibit L – SECTION 3 CLAUSE AND SECTION 3 STATEMENT (HUD 24 CFR PART 135)**

<https://www.govinfo.gov/content/pkg/CFR-2019-title24-vol1/xml/CFR-2019-title24-vol1-part135.xml>