



CINCINNATI METROPOLITAN HOUSING AUTHORITY

SOLICITATION NUMBER 2024-4807

REQUEST FOR QUOTATIONS FOR SMALL PURCHASE
FOR

Legal Services for City West

DATE ISSUED	7/30/24
NON-MANDATORY PRE-PROPOSAL CONFERENCE	Not Applicable
SITE VISIT/WALK THROUGH	Not Applicable
LAST DATE FOR QUESTIONS	Questions shall be submitted in writing no later than 11:00 AM local time on August 13, 2024 to procurement@cintimha.com .
PROPOSAL SUBMITTAL RETURN & DEADLINE	August 20, 2024 no later than 11:00 AM local time by email to: procurement@cintimha.com
WHAT TO SUBMIT	Submit: 1 or more files for the proposal; 1 separate file with only the Fee Submittal Form, and 1 separate file with only the Contract Award and Acceptance Form. All submissions must be in .pdf or equivalent format. Photographs and links to attachments will not be accepted.

CMHA Reserves the right to modify this schedule at its discretion. Notification of changes will be made available to all interested parties via an email and/or by posting on CMHA's website.

THE RESPONSIBILITY FOR SUBMITTING A RESPONSE TO THIS REQUEST AT THE DESIGNATED OFFICE OF CINCINNATI METROPOLITAN HOUSING AUTHORITY ON OR BEFORE THE STATED TIME AND DATE WILL BE SOLELY AND STRICTLY THE RESPONSIBILITY OF THE OFFEROR. THE AUTHORITY WILL IN NO WAY BE RESPONSIBLE FOR DELAYS CAUSED BY THE DELIVERY MANNER CHOSEN BY THE RESPONDENT OR CAUSED BY ANY OTHER OCCURRENCE.



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Table of Attachments		
Attachment	Description	What to do with it
A	Scope of Work	Retain for your records
B	General Terms and Conditions	Retain for your records
C	Quote Packet	Complete and return

1.0 REQUEST FOR QUOTATIONS FOR SMALL PURCHASE

Cincinnati Metropolitan Housing Authority (CMHA) hereby solicits and requests quotes from qualified contractors to provide Legal Services for City West. This request for quotation is not an offer to buy and should not be assumed as such. The award will be made to the most responsive, responsible contractor(s) who submits the most technically acceptable proposal and meets the overall criteria.

CMHA is a metropolitan housing authority organized and existing under Ohio Revised Code §3735.27, et seq., and is governed by the U.S. Housing Act of 1937, as amended, and subject to regulations under Title 2 and Title 24 of the Code of Federal Regulations.

CMHA reserves the right to award the contract to multiple Offerors.

It shall be clearly understood that all services requested in this QSP are on an “as needed basis” and that the values referred to in response to this QSP in no way constitute a guarantee of the level of effort that may be requested of the successful Offeror(s), or guarantee a certain value.

2.0 ECONOMIC INCLUSION

The Authority has, within the terms of its procurement policy, established the following goals with regards to Economic Inclusion and encourages participation by MBE/WBE and Section 3 Business concerns.

- Minority-Owned Business Enterprise:
 - General Construction: 20%
 - Professional Services: 12%
 - Material/Supplies: 5%
- Women-Owned Business Enterprise goal 5%
- Section 3: meet or exceed applicable benchmarks set by HUD

In furtherance of Section 3 initiatives, any hiring or training opportunities that are generated through this contract agreement should be provided to Section 3 Business Concerns or Section 3 Workers to the greatest extent feasible.



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For any questions related to economic inclusion, please email section3@cintimha.com.

3.0 ADDENDUM

All questions regarding the QSP and requirements must be submitted in writing to procurement@cintimha.com prior to the date on the cover page. Questions will be answered in an addendum that will be emailed to all companies on our proposers' list and/or posted to our website.

4.0 QUOTE FORMAT

All quotations should be submitted using the Attachment C Quote Packet.

5.0 AWARD CRITERIA

Award shall be made to the responsive and responsible contractor(s) that submits the best value to the Authority using price and other factors listed below as determined by a committee of Authority employees. Factors which will be considered include: fees, relevant experience, project management ability, and technical capabilities.

The following evaluation criteria will be utilized to evaluate each proposal:

- 5 = Excellent
- 4 = Above Average
- 3 = Average
- 2 = Below Average
- 1 = Poor
- 0 = Non-Responsive

NO	POINTS	WEIGHTED AVERAGE	FACTOR DESCRIPTION
1	0-5	40%	The PROPOSED COSTS to provide the services requested
2	0-5	40%	Relevant Experience: Proposal must clearly demonstrate full knowledge, understanding, and experience in methods, techniques and guidelines required for the performance of the required work. Capacity and capability of the consultant to perform the work on schedule and be responsive to the Authority's direction should be clear. The proposer's ability to form successful working relationships and to effectively communicate is of the essence.



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		<ul style="list-style-type: none">• The name of the firm, the location of the firm’s principal place of business, and if different from the principal place of business the location where the proposed services will be performed.• The age of the Offeror’s business and the average number of employees over the last year.• Demonstrated track record of providing services listed in the Scope of Work.• Experience with the HUD Public and Indian Housing Funding Sources (such as Capital, Replacement Housing Factor Funds, Demolition and Disposition Transition Funds, Operating Subsidy, and Housing Choice Vouchers).• The abilities, qualifications, certifications, and experience of all “key” personnel who would be assigned to provide work, including resumes for each.• Demonstrated track record of other contracts under which services were similar in scope, size, and/or discipline including references.• Experience with LIHTC. Include a list of all LIHTC projects or applications for which the firm provided legal advice in the past two years and a brief description of subject transactions. Identify which have been funded, if any of the transactions have closed. Describe your experience and expertise in drafting, reviewing and negotiating LIHTC related legal documents.• Experience with the legal requirements related to conventional financing, the use of Low-Income Housing Tax Credits (“LIHTC”), and other public and private funding mechanisms.• Experience negotiating agreements between public housing authorities and their development partners• Experience with the interaction of housing authorities with the U.S. Department of Housing and Urban Development (“HUD”) and with HUD’s regulations and requirements relating to the rental assistance demonstration program and mixed-finance development programs.• Experience and expertise in providing legal services in the areas of Ohio real estate transactions and partnership formations.• Range of staff size and workload over the last year.• A listing of and similar detail on any proposed subcontractor or consultant. If proposing as a joint
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			<p>venture, please itemize the projects previously completed together.</p> <ul style="list-style-type: none"> • Other relevant information at the consultant's option. This may include management techniques, cost control methods and experience, cost estimating track record and schedule compliance. • Qualifications: The personnel assigned to perform the services under this contract shall be certified and licensed to perform the services. Attorneys must be a member in good standing of the State Bar.
3	0-5	20%	<p>Project Client Satisfaction: A list of references should highlight at least three (3) recent projects of a similar nature, magnitude and complexity; projects must include telephone number and affiliation, as well as a brief explanation of referenced work. The consultant shall indicate the individuals on staff who had responsibility for each project and whether or not these people are still employed by the consultant. Ideally, contractor will submit a copy of a former plan or report for a similar scope.</p>
		100%	Total Points

6.0 CONTRACT

The Authority will not execute a contract on the successful proposer's form of contract. See *General Terms and Conditions* and *Contract Acceptance and Award*. By submitting a response, the successful proposer agrees to the terms in this QSP and the attachments.

All contract documents, including any contractor supplied agreements shall be reviewed by the Procurement Officer and Contracting Officer prior to execution. Please note that contracts are limited to \$75,000.00 over the term of the contract. The term shall not exceed three years.

7.0 RIGHT TO REJECT QUOTES

CMHA reserves the right to reject any or all quotes, to waive technicalities, and to accept any quote deemed to be in its best interest. CMHA also reserves the right to seek additional or new quotes and to waive informalities and minor inequities in quotes received.



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8.0 PUBLIC RECORD

All bids/proposals submitted to CMHA are subject to the Ohio Public Records Law (O.R.C. 149.43) and the Sunshine Act (5 USC 522(b)) and may be subject to disclosure to the public. Information in proposals that would be deemed a trade secret or otherwise not subject to disclosure under public records laws shall be clearly indicated as such by the contractor, including citations from the Ohio Public Records Law or the Sunshine Act for the exemptions. Also, the contractor shall submit one hard copy and one electronic copy of its proposal and other submissions, which has been redacted of all trade secrets and other information not subject to disclosure pursuant to a public records request. Failure to do so may subject the entire contents to disclosure under public records laws.

9.0 GOLD PERFORMANCE STANDARDS

In 2012, the Authority implemented its motto “Being an Asset to Hamilton County” in addition to establishing Gold Performance Standards which consist of the principles and values by which the Agency performs and how our partners, vendors, contractors and consultants are measured. The Gold Performance Standards are:

<i>Respect</i>	<i>Timely</i>	<i>Exceptional</i>	<i>Initiative</i>
<i>Excellent</i>	<i>Quality</i>	<i>Accurate</i>	<i>Integrity</i>
<i>Value</i>	<i>Creativity</i>	<i>Accountability</i>	<i>Professionalism</i>

It is the Authority’s intent to procure services from a contractor that shares these standards and can clearly demonstrate what they can bring to this project that no other planner can offer.

The contractor’s proposal and overall presentation will be a direct reflection of their understanding of the Authority’s Gold Performance Standards, i.e. quality, creativity and professionalism that the Authority may expect of the contractor as evaluated in the Gold Performance Standard Evaluation Factor.



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ATTACHMENT A: SCOPE OF WORK

1.0 Background

The Cincinnati Metropolitan Housing Authority (CMHA) is seeking proposals from qualified law firms with experience in representing a Public Housing Authority by providing legal services for construction, development, and real estate activities for a Master Development Plan related to a mixed-finance transaction.

The site currently consists of 8 phases of the City West Hope VI development in the West End Neighborhood of Cincinnati. The entire City West Hope VI development consists of 686 residential units and commercial space. Each phase is currently leased to separate partnerships by CMHA pursuant to separate lease agreements.

CMHA and the selected Co-Developer intend to redevelop the existing buildings at City West which will include comprehensive assessments of the physical condition of all buildings, market conditions, operating budgets, existing debt requirements, financing strategy analysis, community amenities, supportive services, and economic development opportunities, collectively referred to as a “Master Development Plan.”

2.0 Scope for Development Legal Services

The Firm(s) selected to provide the legal services described in this RFP (the “Services”) shall provide legal services on behalf of CMHA or any subsidiaries, instrumentalities, or any affiliates which may include but are not limited to the following:

- 2.1 Negotiate, prepare and review of contracts, agreements, evidentiaries, opinions, documents and other writings necessary to implement a master development plan from an existing term sheet. Examples of such materials include documents such as ground leases, regulatory and operating agreements, declarations of trust and restrictive covenants, management agreements, development agreements, partnership agreements, mixed finance amendments to the ACC, program income agreements, loan documents, and documents utilized and required in connection with RAD transactions.
- 2.2 Draft and/or review organizational documents as required for the reorganization and/or formation of any CMHA subsidiary or entity to act as an ownership, development or lending entity, relative to the development project. The services may also include, but not be limited to, legal assistance with tax matters for the entity.
- 2.3 Identify regulatory, statutory and other legal concerns or issues that must be addressed with regard to the development project and all real estate related activities.
- 2.4 Assist with matters related to application for funds, layering of funds, facilitation of mixed finance closings, and issues related to the administration of funds in a manner that protects the legal and fiscal interests of CMHA.
- 2.5 Draft and review legal documents related to mixed finance and tax credit developments.



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- 2.6 Verify compliance with applicable funder rules and regulations (such as HUD, the IRS and others) within the financing, organizational structure and agreements for a subject development.
- 2.7 Facilitate the processes related to mixed finance and tax credit development.
- 2.8 Prepare and implement any alternative funding proposals or agreements, including but not limited to Low-Income Housing Tax Credit (LIHTC) proposals and tax exempt bond funding.
- 2.9 Represent CMHA before federal, state and local administrative agencies and departments regarding funding applications, zoning, obtaining licenses and permits, and other matters related to development and redevelopment.
- 2.10 Provide services related to the development of a mixed income housing component as well as non-residential components of the projects if needed.

3.0 Scope for Real Estate Legal Services

The Firm(s) selected to provide the legal services described in this RFP (the “Services”) shall provide legal services related to drafting and negotiating a Master Development Plan on behalf of CMHA or any subsidiaries or any affiliates which may include but are not limited to the following:

- 3.1 Participate in settlement and litigation of lawsuits or disputes as requested by CMHA.
- 3.2 Represent CMHA in matters involving interface with the selected co-developer.
- 3.3 Represent CMHA in matters involving interface with the municipal governing bodies and with state and federal agencies.
- 3.4 Review and complete real estate transactions, including acquisitions and dispositions involving, e.g., easements, rights-of-way, leases, licenses, and fee transfers with respect to land, buildings, and electric facilities;
- 3.5 Analyze and advise on property tax and PILOT tax matters, zoning, land use, cooperation agreements and other local matters and/or requirements.
- 3.6 Perform the activities associated with real estate transfers and title services, which include providing a preliminary title report, title commitment(s), title insurance policy(s), the recordation of warranty deed(s), and deeds of trust for improved and unimproved property sold or purchased by CMHA and perform settlement closing proceedings for each property.
- 3.7 Discuss the title examination with CMHA and provide recommendations based on the evaluation of the title to the real estate. The Contractor will need to know whether there are certain restrictions to the property use, easements, encroachments or whether the title is marketable and clear for the seller to transfer to purchaser. The closing attorney and agent will identify any existing mortgages against the real estate.
- 3.8 Determine the requirements and documents needed to complete the transaction and advises CMHA.



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4.0 General Requirements

The contractor shall:

- 4.1 Provide other related legal services necessary for construction, development and redevelopment, and real estate that may not be contained in this RFP.
- 4.2 Have fully qualified and licensed staff fully experienced in the requirements as specified in this RFP assigned to CMHA for the duration of the contract. CMHA reserves the right to accept or reject any proposed personnel assigned to it under this RFP or any resulting contract at any time. CMHA will notify the Proposer in writing if it requires the removal and replacement of any personnel.
- 4.3 Represent CMHA in regards to related issues. Related issues could include federal, state, or local governments or governmental entities.

4.3.1 Assignment of Work

4.3.1.1 Services will be requested of the selected Firm(s) by CMHA on a Purchase Order basis. Purchase Orders are specific work assignments performed by the selected Firms(s) awarded a contract based on this RFP. The work assignments will cover one or more areas as outlined above.

4.3.1.2 CMHA may request that the successful proposer(s) and CMHA agree on a defined Scope of Work, a schedule, and an estimate of legal fees and expenses anticipated to be incurred in connection with particular assignments. CMHA may require the Firm to perform certain work on the basis of such Scopes of Work, schedules, and estimates, and to seek CMHA approval to perform work beyond such estimated based upon adequate justification. In appropriate circumstances, CMHA may request a written strategic proposal. Such proposals may include a description of the options and alternatives with an assessment of their worth, the major steps likely to be involved, their timing and sequence, and the projected costs associated with each step. Once proposals are agreed upon by CMHA and the Firm, any material variance from the estimate or proposal must be approved in advance by CMHA.

4.3.1.3 All Purchase Orders are subject to the terms and conditions of the resultant contract. In the event of a conflict between a Task Order and the contract, the contract shall prevail.

5.0 Performance Standards

- 5.1 See Attachment D.
- 5.2 Failure to comply with all of the requirements in the resulting contract and/or the requirements in the purchase order may result in a reduction of the consultant's fee by 10% for that service



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- 5.3** Invoices are to be submitted within two weeks after completion of the service (see *Invoicing* in the General Terms and Conditions) except for development deals. If invoices are submitted late, the amount to be paid shall be reduced:

Number of days to submit invoice to CMHA after completion of work or receipt by CMHA in Yardi (whichever is later)	Performance Deduction from Invoice
<30	0%
>30	30%
>60	50%
>90	75%
>120	100% (No payment)

- 4.1** CMHA may waive the fee reductions at their discretion after discussing extenuating circumstances with the Contractor. Such waiver shall be in writing at the time of the service and may be considered by CMHA in the award of future work under this contract and award of future contracts.

5.0 The Authority’s Motto and Gold Performance Standards

In 2012, the Authority implemented its motto “Being an Asset to Hamilton County” in addition to establishing Gold Performance Standards which consist of the principles and values by which the Agency performs and how our partners, vendors, contractors and consultants are measured. The Gold Performance Standards are:

<i>Respect</i>	<i>Timely</i>	<i>Exceptional</i>	<i>Initiative</i>
<i>Excellent</i>	<i>Quality</i>	<i>Accurate</i>	<i>Integrity</i>
<i>Value</i>	<i>Creativity</i>	<i>Accountability</i>	<i>Professionalism</i>

It is the Authority’s intent that the contractor will also adhere to these standards.



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Attachment B

CINCINNATI METROPOLITAN HOUSING AUTHORITY *GENERAL TERMS AND CONDITIONS*

1. **Purpose:** This document sets out the general terms and conditions of the relationship between Contractor and the Cincinnati Metropolitan Housing Authority (CMHA) and Touchstone Property Services (TPS). When CMHA is used in the rest of this Exhibit, both CMHA and TPS are included unless noted otherwise.
2. **Contract Term:** This Agreement shall become effective upon CMHA issuing a notice of contract commencement to Contractor and shall remain in effect for the term set forth in Attachment A – Scope of Work and the Contract Acceptance and Award, with the option to renew at CMHA’s sole discretion prior to the expiration of this Agreement. However, at no time may the term of this Agreement exceed five years. The Contract shall begin upon the delivery of a Notice of Contract Commencement by CMHA to the Contractor. This Notice may be delivered in the form of a letter, copy of signed contract or contract acknowledgement.
 - 2.1. **Assignment of Personnel:** CMHA shall retain the right to demand and receive a change in personnel assigned to the work if CMHA believes that such change is in the best interest of CMHA and the completion of the contracted work.
 - 2.2. **Responsibility for Subcontractors:** All requirements for the Prime Contractor shall also apply to any and all subcontractors hired by the Contractor. It is the Contractors’ responsibility to ensure the compliance by the subcontractors. At all times the Contractor remains liable to the Authority for the performance and compliance of his/her subcontractors.
 - 2.3. **Unauthorized Sub-Contracting Prohibited:** The Contractor shall not assign any right, nor delegate any duty for the work proposed pursuant to this contract (including, but not limited to, selling or transferring the contract) without the prior written consent of CMHA Procurement staff. Any purported assignment of interest or delegation of duty, without the prior written consent of CMHA shall be void and may result in the cancellation of the contract with CMHA, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract.
 - 2.4. **Termination:** It shall be within CMHA’s sole discretion to terminate this agreement for cause. Upon discovery of a contract deficiency, it is CMHA’s general policy to give one verbal notification to the contractor to cure the deficiency. A second notification of deficiency shall be delivered to the contractor in writing and will clearly state that, if required, a third notification will result in termination. Termination may also occur without prior notifications, depending on the deficiencies.



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- 2.5. **Contract Service Standards/ Government Standards:** It is the responsibility of the prospective Contractor to ensure that all items and services proposed conform to all local, State and Federal laws concerning safety (i.e., OSHA) and environmental control (i.e., EPA) and any other enacted ordinance, code, law or regulation. The prospective Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the prospective Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 2.6. **Public Records:** All bids/proposals submitted to CMHA are subject to the Ohio Public Records Law (O.R.C. 149.43 and the Sunshine Act (5 USC 522(b) and may be subject to disclosure to the public. Information in proposals that would be deemed a trade secret or otherwise not subject to disclosure under public records laws shall be clearly indicated as such by the prospective Contractor, including citations from the Ohio Public Records Law or the Sunshine Act for the exemptions. Also, the prospective Contractor shall submit two copies of its proposal and other submissions, one of which has been redacted of all trade secrets and other information not subject to disclosure pursuant to a public records request. Failure to do so may subject the entire contents to disclosure under public records laws.
3. **Scope of Services and Duties:** Contractor is engaged to provide CMHA with products and/or services as described in the Scope of Work as may be amended by a supplemental agreement and express written consent of both Parties. Contractor will diligently provide products or services reasonably required to represent CMHA in the matters described, and will take all reasonable steps to keep CMHA informed of progress and to respond to CMHA's inquiries. CMHA will advise Contractor of relevant facts and reasonably cooperate with Contractor.
4. **Mandatory HUD Terms:** Parties acknowledge and agree that HUD terms (Table 1, *Form HUD-5370-C General Conditions for Non-Construction Contracts Section I and/or Section II if applicable*) contain the mandatory terms prescribed by the United States Department of Housing and Urban Development and that said terms are incorporated into this Agreement and may not be modified or amended. Any term hereinafter, including without limitation any provisions contained in Contractor's Solicitation Response, that conflict with the terms set forth by HUD is void and unenforceable.

HUD Form 5370-C Section 1-5 is clarified by 2 CFR 200.315, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards (F), and 37 CFR Part 401. Rights in Data refer to data and records which are the products produced under the contract and the only part in which CMHA has ownership rights. CMHA does not have rights in the existing software systems of the contractor.

5. **Mandatory Housing Authority Terms:** Parties acknowledge and agree that *theses General Terms and Conditions* contain mandatory terms as set-forth by CMHA and said terms shall not be modified or amended without the express written approval of CMHA's Contracting Officer and without such approval the terms as forth in these *General Terms and Conditions* are in full force and effect. Any term(s) hereinafter, including without limitation any provisions contained in Contractor's Proposal that conflict with the terms as set forth in *these General Terms and Conditions* is void and unenforceable.



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Any Provision(s) contained within these *General Terms and Conditions* that is similar to a Provision(s) or has the same or similar heading of any Provision(s) of *Form HUD-5370-C General Conditions for Non-Construction Contracts Section I (and Section II)* shall be considered supplemental provisions and are binding. Any Conflict in the language is unintentional and the HUD Provision(s) will be applicable.

6. **Subject to Appropriation of Funds:** CMHA's funds are contingent upon the availability of appropriations by the United States Congress and the United States Department of Housing and Urban Development. If the United States Congress and/or the United States Department of Housing and Urban Development fail at any time to continue funding for the payments or obligation due hereunder, the Work under this Agreement that is affected by the lack of funding will terminate and CMHA will have no further obligation to make payments and will be released from its obligations on the date funding expires.

6.1. CMHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to CMHA, if:

6.1.1. funding is not available;

6.1.2. legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

6.1.3. CMHA's requirements in good faith change after award of the contract.

7. **Invoicing:**

7.1. Contractor shall not perform any services without a Purchase Order or a Purchase Order Number. If Contractor performs services without a Purchase Order, CMHA shall not be required to pay Contractor for those services or materials.

7.2. Invoices shall not exceed the amount of the Purchase Order. Any invoice which exceeds the Purchase Order will be considered the same as performing services without a Purchase Order and CMHA shall not be required to pay Contractor for those services or materials. When a Contractor realizes the work will exceed more than the amount of the Purchase Order, the Contractor must reach out to the CMHA staff requesting the work for an approved Change Order prior to completing any work exceeding the original Purchase Order amount. The only exception is a life and safety Purchase Order.

7.3. Invoices shall be submitted via Vendor Café after the work is complete or after the goods have been delivered to CMHA. Invoices must be attached to the corresponding Purchase Order and must be assigned to the correct line item of the Purchase Order by the vendor. Non-compliant invoices may be rejected and the Contractor will need to submit a revised invoice to receive payment.



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- 7.4. All Invoices must include the address of the property and unit number and the date property was serviced in the description of the service. Invoices must be broken down to include the number of hours worked (including start and stop times), the rate charged, and materials costs listed separately. Fees must be verifiable and auditable. Fees on the fee submission form are not to exceed fees stated in the Contract. Contractor may adjust fees lower if needed, but the adjusted fees cannot exceed the original fee submitted.
- 7.4.1. Contractor shall only invoice for the time spent on the property. CMHA shall not pay for time spent in route or traveling to acquire parts/supplies.
- 7.4.2. Where union agreements require that technicians be paid from when they leave home for emergency work, CMHA will pay for travel time not to exceed thirty minutes. It is the responsibility of the technician and/or contractor to correctly track and document the time in an accurate invoice to CMHA.
- 7.4.3. Invoices shall show arrival and departure times to and from the property of all Contractors and their employees responding for service.
- 7.4.4. Contractor shall minimize overstaffing for minor repairs. If Contractor is found to be overstaffing for repairs, based upon customary trade practices, CMHA reserves the right to only pay for customary trade practices.
- 7.4.5. CMHA shall not be responsible for trip charges and/or service charges. Fees are limited to those shown on the fee submission form.

7.5. Invoices shall not be backdated. The date on the invoice shall match the date the invoice is submitted to CMHA. Invoices which are not dated in accordance with this section will be rejected and the Contractor will need to submit a revised invoice to receive payment.

7.6. All invoices must be submitted within two weeks for services performed. No Contractor may invoice for services not rendered. Contractors violating this section may be terminated.

7.7. If invoices are submitted late, the amount to be paid shall be reduced:

Number of days to submit invoice to CMHA after completion of work	Performance Deduction from Invoice
<30	0%
>30	30%
>60	50%
>90	75%
>120	100% (No payment)

7.8. CMHA will not pay invoices until services are fully completed as scheduled and/or products are received. Contractor shall provide a statement of work and signed receiver indicating the work performed and acknowledging its completion. CMHA will pay properly submitted invoices in approximately 30 days.



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7.9. Payment shall be contingent upon review and acceptance of the Contractor's Deliverables by CMHA. CMHA may, in its sole discretion, withhold payments claimed by Contractor for services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract. Payments may also be reduced for performance standard deductions.

7.10. CMHA reserves the right to review invoices for parts. Contractor shall provide invoices for parts within three (3) days of request by CMHA. Failure to provide invoices may result in withholding of payment for such parts.

8. Disputed Billings (Charges):

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

8.1.1. CMHA's representative shall, within 15 days after CMHA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

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

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

8.1.3.1. pay the disputed charges and reserve the right to submit the matter to mediation, arbitration, or the appropriate court in Hamilton County, Ohio;

8.1.3.2. not pay the disputed charge and submit the matter to mediation, arbitration, or the appropriate court in Hamilton County, Ohio;

8.1.3.3. not pay the disputed charge and allow the Contractor to submit the matter either to mediation, arbitration, or the appropriate court in Hamilton County, Ohio.



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

- 8.1.4.1.** clear the amount which is ordered from CMHA account;
or
- 8.1.4.2.** repay to CMHA the amount ordered.
- 8.1.4.3.** Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

9. Warranties and Representations: Contractor represents and warrants that its services provided for under the terms of this Agreement will be of good quality and consistent with the professional skill and care ordinarily provided by professionals performing the same or similar service and such services and materials shall be provided in accordance with generally accepted industry standards. Additionally, Contractor represents and warrants the following:

- 9.1.** Contractor has the right to enter into this Agreement.
- 9.2.** All services provided for under this Agreement are provided in accordance with the sound professional standards and the requirements of this Agreement and without any material defect.
- 9.3.** No services or materials provided for by Contractor under this Agreement will infringe upon the intellectual property rights of any third party.
- 9.4.** All services provided for hereunder are merchantable and fit for the particular purpose described in this Agreement.
- 9.5.** Contractor will observe and abide by all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any license(s), permit(s) or the like required to provide the services and materials under this Agreement. Any fees submitted by the Contractor reflect all costs required for compliance and to procure and provide such necessary licenses and permits.
- 9.6.** Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Agreement.

If any services of Contractor or any materials or products provided for by Contractor fail to comply with these representations and/or warranties, and Contractor is so notified in writing, Contractor shall either 1) correct such failure with all due speed, or 2) shall refund the amount of compensation paid for the services, materials or products. Contractor shall also indemnify CMHA for any direct damages and claims by third parties based upon a breach of these warranties.



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10. Non-Exclusivity: This Agreement is a non-exclusive agreement. Either Party may perform or enter into agreements to perform the services and/or to provide any materials or products similar to those provided for herein so long as such agreements do not impede either Party's ability to perform under this Agreement.

11. Indemnity: Contractor hereby agrees to protect, defend, indemnify and hold harmless CMHA, its officers, employees, agents, and Board of Commissions from and against all losses, liabilities and any and all claims of whatever kind, nature or description which may be asserted or claimed against CMHA indemnities which arise from any act or omission of Contractor, its subcontractors, directors, officers and employees or results from any breach or violation by Contractor, its subcontractors, directors, officers, or employees. Contractor agrees, at its own expense, to pay the full cost thereof, including attorney's fees, if any, incurred by CMHA in defending any claim and shall pay any judgment rendered, with respect to the subject of the indemnity contained herein as well as any allegation of libel, slander, invasion of privacy, any failure to obtain any necessary release, permission or clearance, or any other cause of action or claim arising out of materials and elements provided for by Contractor under this Contract. Contractor will be liable, at all times, for damages or destruction of Contractor's equipment and materials, regardless of how such damage occurs. CMHA will be under no liability to reimburse Contractor for any such loss. If Contractor insures its equipment and material against physical loss of damage, then Contractor agrees to secure, if required in such insurance, a waiver of subrogation in favor of CMHA.

Contractor will also indemnify CMHA and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any copyright, patent, trade secret, or similar intellectual property right based upon CMHA's proper use of any products or supplies under this Contract. This obligation of indemnification will not apply where CMHA has modified or misused the products or supplies and the claim of infringement is based upon the modification or misuse. CMHA agrees to give Contractor notice of any such claim as soon as reasonably practicable and to give Contractor the authority to settle or otherwise defend any such claim upon consultation with and approval by CMHA's General Counsel. If a successful claim of infringement is made, or if Contractor reasonably believes that an infringement claim that is pending may succeed, Contractor shall take one of the following four actions:

- 11.1.** Modify the service(s), material(s) and/or product(s) so that the service(s), materials(s), and/or product(s) are no longer infringing.
- 11.2.** Replace material(s) and/or product(s) with an equivalent or better item.
- 11.3.** Acquire the right for CMHA to use the infringing service(s), material(s) and/or product(s) as intended; or
- 11.4.** Cease the related service(s) and/or remove the material(s) and/or product(s) and refund any amount CMHA paid for the service(s), material(s) and/or products(s) that required the availability of the infringing material(s) and/or product(s) for it to be useful to CMHA.



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Nothing contained in this provision shall be construed to limit any indemnity obligations of Contractor as set forth within the provisions of the Contract Documents.

It is agreed and understood that in no event shall any CMHA official, officer, employee, or agent be held personally liable or responsible for any covenant or agreement whether expressed or implied.

12. Insurance: Contractor shall obtain and maintain during the performance under this Agreement the following insurance and the amount of such coverage shall be in an amount to cover all indemnity obligations and shall include, but not necessarily be limited to, the following:

12.1. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than: \$1,000,000 each occurrence; \$2,000,000 general aggregate; \$50,000 damage to premises and fire damage; and \$5,000 medical expenses for any one person.

12.1.1. The Authority and its affiliates must be named as an Additional Insured and as the Certificate Holder.

12.1.2. Commercial General Liability Insurance shall cover premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability.

12.1.3. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to CMHA a certificate of insurance showing compliance with this provision.

12.2. Professional liability and/or “errors and omissions” coverage with a limit not less than \$1,000,000.

12.2.1. This is required for vendors who render observational services to the Authority such as appraisers, inspectors, attorneys, engineers, or consultants.

12.2.2. The coverage shall be not less than \$1,000,000 each occurrence and \$1,000,000 general aggregate.

12.2.3. The Authority and its affiliates must be named as an Additional Insured and be a Certificate Holder.

12.2.4. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to CMHA a certificate of insurance showing compliance with this provision.

12.3. Automobile Liability Insurance with CMHA named as an additional insured and as the Certificate Holder with minimum limits as follows: \$1,000,000 combined single limit; \$50,000/\$100,000 for vehicles utilized during the contract if such vehicles are not owned by the Contractor or any agent, owner, or employee of the Contractor (i.e., rental vehicles); \$5,000 medical pay.

12.3.1. This is required of any contractor who will be doing hands on work at the Authority properties.



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- 12.4. **Workers' Compensation Insurance** as required by state statute and **Employer's Liability Insurance** covering all of Contractor's employees acting within the course and scope of this Contract.
 - 12.4.1. Worker's Compensation is required for any contractor made up of more than one person.
 - 12.4.2. Employer's Liability Insurance must cover all of Contractor's employees acting within the course and scope of this Contract. Employer's Liability limit is \$500,000 bodily injury for each accident, \$500,000 bodily injury by disease for each employee, and \$500,000 bodily injury disease aggregate. The Authority and its affiliates must be a Certificate Holder.
 - 12.5. Excess Liability Insurance (Umbrella Policy): may compensate for a deficiency in general liability or automobile insurance coverage limits.
 - 12.6. The coverages provided to CMHA shall be primary and not contributing to or in excess of any existing CMHA insurance coverages.
 - 12.7. The Insurance shall contain provisions preventing cancellation or non-renewal without at least 45 days' notice to CMHA and stating that the carrier will waive all rights of recovery, under subrogation or otherwise, against CMHA, its office, agents, employees or Board of Commissioners.
 - 12.8. Contractor shall provide certificates evidencing the coverage required under this Provision of this Agreement to CMHA upon execution of this Agreement and annually thereafter evidencing renewals thereof. At any time during the term of this Agreement, CMHA may request, in writing, and the Contractor shall thereupon within 10 days supply to CMHA evidence satisfactory of compliance with the provision of this section.
 - 12.8.1. The Contract may be terminated if the insurance lapses.
 - 12.9. Provide evidence of deductibles. If awarded a contract, CMHA may require lower deductibles depending on the risk to the Agency.
 - 12.10. Coverage required of this Contract will be primary over any insurance or self-insurance carried by CMHA.
13. **Limitation of Liability:** Notwithstanding any limitation provisions contained in the Contract Documents and materials incorporated by reference, the Parties Agree as follows:



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- 13.1.** In no event shall CMHA be liable for any indirect, incidental, or consequential loss or damage of any kind, including but not necessarily limited to lost profits, even if CMHA had been advised, knew or should have known of the possibility of such damages.
- 14. Amendments:** No amendment or modification of this Agreement will be effective unless it is in writing and signed by both Parties. At no time shall an amendment or modification be effective that conflicts with any mandatory provisions set forth by HUD in Table 1, or *Form HUD-5370-C General Conditions for Non-Construction Contracts Section I (and Section II)*.
- 15. Publicity:** Contractor agrees to submit to CMHA all advertising and publicity related matter relating to this Agreement wherein CMHA's name is mentioned or language used from which the connection of CMHA's name may, in CMHA's judgment, be inferred or implied. Contractor shall not publish or use such advertising and publicity matters without prior express written consent of CMHA.
- 16. Non-Waiver of Rights:** If either party does not seek compensation for breach or insist upon strict performance of any provision of this Agreement, that Party is not prevented from seeking compensation or insisting upon strict performance for a future breach of the same or similar provision. Failure of CMHA to take any action or assert any right hereunder shall not be deemed a waiver of such right.
- 17. Remedies:**
- 17.1. Actual Damages:** Contractor is liable to CMHA for all actual and direct damages caused by Contractor's default. In the event Contractor fails to provide services or material as provided for in the Contract Documents, CMHA may substitute the services and/or material from a third party. CMHA may recover the costs associated with acquiring substitute services and/or materials, less any expense or costs saved by Contractor's default, from Contractor.
- 17.2. Deduction of Damages from Contract Price:** Upon prior written notice being issued to the Contractor, CMHA may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on this Agreement.
- 18. Contractor Suspension:** If Contractor fails to perform any one of its obligations under the Contract Documents it will be in default and CMHA, at its sole discretion, may suspend rather than terminate this Agreement when CMHA believes that doing so would better serve its interest. In case of a suspension, the amount of compensation due to Contractor will be determined in the same manner as provided for in the Termination for Convenience provision set forth in *Form HUD-5370-C General Conditions for Non-Construction Contracts Section I* less any damage to CMHA resulting from Contractor's breach or other default.

These General Terms and Conditions address the suspension of the contract. However, CMHA may suspend the contractor in accordance with the Contractor Suspension and Responsibility Standard Operating Procedure posted on CMHA's website.



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19. Contractor Responsibilities:

19.1. Contractor shall perform national criminal history checks for Ohio, Indiana, and Kentucky, and 10-panel drug screening tests on all prospective employees performing work under this contract or coming onto a CMHA property and provide summaries of the results to the Authority if requested. The background check and drug screening shall be completed prior to contractor or its employees performing work for CMHA. For the purposes of this section, the term “employees” includes contractor. Prospective employees whose criminal background check discloses a misdemeanor or felony involving crimes of moral turpitude, sexual offenses or harm to persons or property shall not be employed to perform work under this contract. Contractor is required to perform drug screening of all employees and to ensure acceptable test results. Criminal history and drug screening checks will be completed at the sole expense of the contractor. Any employee of the Contractor suspected of being under the influence of drugs and or alcohol will be reported to the appropriate personnel at CMHA and/or other local law enforcement. If the employee is determined to be under the influence of drugs or alcohol in any form or manner, or believed by proper authority to be dealing in illicit sale of alcohol or drugs they will be removed and shall not be allowed to return to any job site on the Authority’s property. The Contractor’s contract may be suspended and/or terminated should such a situation occur or if the Contractor fails to submit results pursuant to this section.

19.1.1. If CMHA requests additional drug screening, the test shall be performed within 24 hours of when the request is made to the contractor and the summary shall be sent directly to CMHA from the testing facility. Testing by the contractor of its employees is not acceptable; the testing must be completed by an independent testing facility.

19.1.2. Local union drug testing cards are acceptable as long as the strictest of the requirements of this contract and local union requirements are met. However, the Contractor remains responsible for monitoring that drug testing is being completed and ensuring acceptable results.

19.2. Contractor(s) shall provide uniforms and ID Badges identifying Contractor for all employees working on CMHA’s properties. No employees will be allowed on CMHA’s properties out of uniform and without his/her ID badge on his/her person. Contractor(s) must submit a picture of the uniform and a sample of his/her ID badge if requested by CMHA; uniforms are required for maintenance/repairs work.

CMHA may provide ID badges for contractors working on CMHA properties. Employees of the Contractor may be prohibited from entering CMHA property without proper identification.

19.3. Contractor’s personnel shall be neat and conduct all work in a professional and efficient manner. If any employee of Contractor is deemed unacceptable by CMHA, Contractor shall immediately replace such personnel with an acceptable substitute to CMHA.



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- 19.4.** Contractor(s) shall practice acceptable safety precautions so as not to cause harm to any persons or property while performing services under this contract. Contractor(s) shall follow industry safety standards, and use only industry approved safety equipment in accordance with the manufacturer's specifications in the performance of all duties.
- 19.5.** Contractor(s) shall pay all of its employees, including any and all approved Sub-Contractors, at least the legal minimum wages as determined by the United States Department of Labor and the United States Department of Housing and Urban Development and Department of Labor Prevailing Wage. Wage Determinations can be accessed via the Department of Labor website, www.wdol.gov.
- 19.6.** Upon completion of the work, Contractor(s) shall clean up the area where the work was performed and Contractor(s) shall remove any debris generated by the products and/or services at CMHA premises. Contractor shall legally dispose of all litter, trash and debris accumulated as a result of the services under this contract at an offsite location. The use of CMHA dumpsters or trash receptacles is strictly prohibited.
- 19.7.** Contractor(s) shall clearly mark all work areas that might reasonably be expected to endanger the health and safety of residents, guests, or any other persons. Contractor(s) will provide such signs, markers and barricades as required to identify all work areas and minimize inherent dangers.
- 19.8.** The contractor shall be responsible for notifying CMHA immediately of any damages (i.e. fire, container leaking) deemed to be a health or safety hazard whether the damage is caused by the contractor or other means.
- 19.9.** Contractor shall repair or replace, at the contractor's expense, any and all items damaged or destroyed due to contractor's negligence.
- 19.10.** The Contractor shall be responsible for safeguarding all CMHA property provided for Contractor use. At the close of each workday, CMHA facilities, property and materials shall be inspected and secured.
- 19.11.** The Contractor is prohibited from placing a lien on CMHA's property. This prohibition shall apply to all subcontractors.
- 19.12.** The contractor (including any and all contract or subcontract employees, etc. incidental to this contract) is to be cognizant of safety at all times and take necessary safety precautions, so as not to cause harm to any persons or property while performing service or while on site. Extreme care shall be maintained around pedestrians and personal belongings.



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- 19.13. The contractor and its employees shall at all times represent themselves in a courteous and professional manner. All posted driving, speed, and parking regulations shall be observed.
- 19.14. Contractor(s) shall inform CMHA Procurement within two (2) working days of any change in contact information, including but not limited to contact personnel, mailing address, physical address, phone numbers and email addresses.
- 19.15. Contractor represents and warrants that the fees for the goods/services are the lowest price/fees charged by Contractor to any of its external buyers for similar volumes of similar goods and/or services. If Contractor charges any other buyer a lower fee, Contractor must apply that fee to all goods/services under this contract. If Contractor fails to meet the lower price, CMHA, at its option, may terminate this contract for cause and without liability.
- 19.16. Conservation of Utilities – The Contractor shall practice utility conservation in all CMHA facilities. The Contractor shall be responsible for operating under conditions, which preclude the waste of utilities, which shall include:
- Lights shall be used only in areas where and when work is actually being performed.
 - Water faucets or valves shall be turned off after the required usage has been accomplished.
 - Mechanical equipment controls for heating, ventilation, and air conditioning systems shall not be adjusted by the Contractor or by Contractor's employees.
 - 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. (in 5370CI in section 6)

20. Additional Considerations:

- 20.1. **Right of Joinder; Additional Services/Purchases by Other Public Agencies (“Piggy-Back”):** Contractor acknowledges that other Public Agencies may seek to “Piggy-Back” under the same terms and conditions, during the effective period of Agreement. The services and/or purchases being offered in the Contract Documents, Fee Submission and/or Best and Final Offer and for the same prices and/or terms proposed therein. Contractor has the option to agree or disagree to allow contract Piggy-Backs on a case-by-case basis. In the event the awarded Contractor allows another Public Agency to join the CMHA Contract, it is expressly understood that CMHA shall in no way be liable for the joining Public Agency obligations to the awarded Contractor in any manner whatsoever.



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- 20.2. Non-Escalation:** Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.
- 20.3. Required Permits:** Unless otherwise stated in the RFP documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either CMHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and any costs submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits.
- 20.4. Taxes:** All persons doing business with CMHA are hereby made aware that CMHA is exempt from paying Ohio State Sales and Use Taxes and Federal Excise Taxes as set forth in state and federal laws. A letter of Tax Exemption will be provided upon request.

All persons doing business with TPS are hereby made aware that TPS is exempt from paying Ohio State Sales and Use Taxes and Federal Excise Taxes as set forth in state and federal laws. A letter of Tax Exemption will be provided upon request. Although TPS is tax exempt, some properties that TPS manages are not. Please see the table below for the tax status of each property.

PROPERTY	ADDRESS	TAX STATUS
Springdale Senior Limited Partnership (Baldwin Grove)	11111 Springfield Pike Cincinnati, OH 45246	Taxable
Reserve on South Martin, LP	7363 S. Martin Street Cincinnati, OH 45231	Taxable
Touchstone Property Services, Inc.	1088 W. Liberty Street Cincinnati, OH 45214	Non-Taxable
Cary Crossing, LLC	1411 Compton Road Cincinnati, OH 45231	Taxable
West Union Square, LLC	2942 Banning Road Cincinnati, OH 45239	Taxable
Sutter View, LLC	1754 Beecker Lane Cincinnati, OH 45225	Taxable
Park Eden Evanston, LLC (dba The Evanston)	1820 Rutland Avenue Cincinnati, OH 45207	Non-Taxable
Hamilton County Affordable Housing	1088 W. Liberty Street Cincinnati, OH 45214	Non-Taxable
City West Retail	1088 W. Liberty Street Cincinnati, OH 45214	Non-Taxable
Park Eden Apartments, LLC	2610 Park Avenue Cincinnati, OH 45206	Taxable
Pinecrest RAD, LLC	3951 W. 8 th Street	Taxable



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	Cincinnati, OH 45205	
Marianna Terrace, LLC	1700 Wabash Avenue Cincinnati, OH 45215	Taxable
Horizon Hills, LLC	1003 Grand Avenue Cincinnati, OH 45204	Non-Taxable
Riverview San Marco, LLC	2538 Hackberry Street Cincinnati, OH 45206	Taxable
Riverview San Marco, LLC	1601 Madison Road Cincinnati, OH 45206	Taxable
Bennett Point, LLC	528 & 600 East 12 th Street Cincinnati, OH 45202	Taxable
Logan Commons, LLC	1712 Logan Street Cincinnati, OH 45202	Taxable

20.5. Freight on Bill and Delivery: All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFP documents or within the contract.

20.5.1. The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful proposer. Upon default, the successful proposer agrees that CMHA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.

20.6. Work on CMHA Property: If the successful proposer's work under the contract involves operations by the successful proposer on CMHA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by CMHA's negligence, shall indemnify CMHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subcontractors.

20.7. Warranty: The services provided under the contract shall conform to all information contained within the RFP documents as well as applicable Industry Published Technical Specifications, and if one of the above-mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.

20.8. Official, Agent and Employees of CMHA Not Personally Liable: It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of CMHA in any way be personally liable or responsible for any covenant or



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agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

- 20.9. Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 20.10. Independent Contractor:** Contractor is an independent contractor and is not to be considered an employee of CMHA, or assume any right, privilege or duties of an employee. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 20.11. Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 20.12. Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 20.13. Limitation of Liability:** In no event shall CMHA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.
- 20.14. Lobbying Certification:** By proposing to do business with CMHA or by doing business with CMHA, each proposer certifies the following:
- 20.14.1.** No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of an Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- 20.14.2.** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee



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of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form –LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.

20.14.3. The successful proposer shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontractors, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

20.14.4. This clause is a material representation of fact upon which reliance was placed when the award was made or entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

20.15. Privacy: Any Personal information collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss. Contractor shall ensure that its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor agrees not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without express written consent of CMHA or otherwise required by law. Contractor agrees to indemnify and hold harmless CMHA for any damages related to Contractor’s unauthorized use of personal information.

20.16. 2 CFR Appendix II to Part 200 (F), Procurement: Pursuant to this CFR, as issued by the Office of the Secretary, HUD, CMHA and the contractor each agree to comply with the following provisions and agree that any contract that ensues as a result of this RFP will include the following clauses, whether actually inserted or by reference:

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



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CMHA shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

- 20.16.1.1.** If the contractor is in material breach of the contract, CMHA may promptly invoke the termination clause detailed within Section No. 3, form HUD-5370-C, General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work) or in Table 1, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.
- 20.16.1.2.** Prior to termination, CMHA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. CMHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with CMHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing CMHA's alleged incorrect action(s).
- 20.16.1.3.** After termination, if the contractor does not agree with CMHA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with CMHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing CMHA's alleged incorrect action(s).
- 20.16.1.4.** The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.



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- 20.16.1.5.** It is CMHA's policy to resolve all contractual issues informally and without litigation. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences.
- 20.16.1.6.** For contracts of \$100,000 or less, the bidder/contractor may request to meet with Procurement.
- 20.16.1.7.** All claims by a contractor relating to performance of a contract shall be submitted in writing to the Procurement Office for a written decision. The contractor may request a conference on the claim. The Procurement Office's decision shall inform the contractor of its appeal rights to the next higher level of authority in CMHA. Contractor claims shall be governed by the Changes clause in the form HUD-5370-C-I.

20.16.2. Conflict of Interest: 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 with regard to this contract.

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.

20.16.3. Termination For Cause and Convenience: As detailed within Clause No. 3 of Form HUD-5370-C, General Conditions for Non- Construction Contracts, Section I— (Within or without Maintenance Work) or in Mandatory Contract Clauses for Small Purchases Other Than Construction.

20.16.4. Executive Order 11246: Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 the equal opportunity clause provided under 41 CFR 60-1.4(b) is incorporated herein by reference, in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."



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- 20.16.5. Copeland “Anti-Kickback” Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland “Anti- Kickback” Act (40 U.S.C. 3145) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 20.16.6. Davis-Bacon-Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 20.16.7. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, both parties hereby agree to comply with the Contract Work Hours and Safety Act (40 U.S.C. 3702 and 3704) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 20.16.8. Rights to Inventions Made Under a Contract or Agreement.** If the contract meets the definition of “funding agreement” under 37 CFR 401.2(a) and one of the parties wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 20.16.9. Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90- 23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 20.16.10. Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, General Conditions for Non- Construction Contracts, Section I—(With or without Maintenance Work), CMHA has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
- 20.16.10.1.** Except as provided elsewhere in this clause, CMHA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes



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

- 20.16.10.2.** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 20.16.10.3.** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants CMHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of CMHA.
- 20.16.10.4.** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants CMHA a license of the same scope as identified in the preceding paragraph.
- 20.16.10.5.** CMHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, CMHA may either return the data to the contractor, or cancel or ignore the markings.
- 20.16.10.6.** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.



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- 20.16.10.7.** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees CMHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 20.16.10.8.** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by CMHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any CMHA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 20.16.11.** **Clean Air Act:** For all contracts in excess of \$150,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q, and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended.
- 20.16.12.** **Byrd Anti-Lobbying Amendment (31 USC 1352):** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes



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place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- 20.16.13.** Equipment, services, or systems shall not include covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- 20.16.13.1.** (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- 20.16.13.2.** (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- 20.16.13.3.** (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Contractors are hereby notified that none of the funds provided under this contract may be used for a project for infrastructure unless: (1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.



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Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

20.17. Additional Federally Required Orders/Directives: Both parties agree that they will comply with the following laws and directives that CMHA has received from HUD and that these same clauses will be a part of any contract that ensues as a result of this RFP:

20.17.1. Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.

20.17.2. Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. CMHA hereby extends this requirement to the Contractor and its private contractors.

20.17.3. Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, CMHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.

20.17.4. The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.

20.17.5. Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).

20.17.6. HUD Information Bulletin 909-23 which is the following:

20.17.6.1. Notice of Assistance Regarding Patent and Copyright Infringement;

20.17.6.2. Clean Air and Water Certification; and

20.17.6.3. Energy Policy and Conversation Act.

20.17.7. The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable



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nor is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party.

20.18. Nondiscrimination: During the performance of this Contract, Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

The contractor agrees:

- (1) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates;
- (2) That no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry.
- (3) All contractors shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Ohio Revised Code.

See ORC 125.111

20.19. Headings: The headings, titles, and captions in this Attachment are inserted for convenience only and are in no way intended to describe, interpret, define, prioritize or limit the scope, extent, or intent of this Attachment or any provision herein.

21. Federal Requirement: The Work to be performed under this Agreement may be paid for in part by federal funds and therefore is subject to federal statutes, rules, regulations, laws, orders and directives applicable to work paid for by federal funds. In the event an applicable federal requirement conflicts with any provision of the Contract Documents, the federal requirement shall prevail and take precedence over and against such conflicting provisions.



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22. **Survivorship:** All provisions hereunder relating to payment, confidentiality, warranties, limitations on damages, publicity, and indemnity shall survive the termination of this Agreement.
23. **Governing Law:** This Agreement shall be governed and construed exclusively by its terms and by the laws of the State of Ohio, and the venue for any disputes will be exclusively with the court of appropriate jurisdiction in Hamilton County, Ohio.
24. **Assignability:** The rights and obligations of Contractor are personal and may be performed only by Contractor. Contractor shall not assign any interest rights or obligations under this Contract without prior written consent of CMHA. Any purported assignment that does not comply with this provision is void. This Contract is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.
25. **Force Majeure:** Neither party shall be liable for failure to perform if such failure is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
26. **Severability:** If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the rest of the provisions of this Agreement and the Contract Documents will remain enforceable to the fullest extent permitted by law.
27. **Ownership and Use of Documents:** All documents, materials, data, and records generated as a result of this Agreement shall remain the property of CMHA. If this Agreement results in any material to be copyrighted, the author may copyright the work. However, CMHA and the HUD will have the right to a royalty free, not exclusive and irrevocable license to reproduce, publish, use and authorize others to use the work for government purposes.
28. **Order of Precedence:** The term “Contract Documents” shall include the documents listed in this Provision. Each of the Contract Documents is an essential part of the agreement between the Parties, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to provide for the entire agreement. In the event of any conflict among the Contract Documents, the order of precedence shall be:
 - 28.1. Applicable Federal and State of Ohio statutes and regulations
 - 28.2. HUD Table 1, Form HUD-5370-C General Conditions for Non-Construction Contracts, Sections I and II, if applicable
 - 28.3. This Agreement
 - 28.4. The Scope of Work, including all addenda and attachments
 - 28.5. The Contractor’s Fee Submission and/or Best and Final Offer
 - 28.6. Contractor’s Proposal subject to any limitations set forth in this Agreement
 - 28.7. Contractor form of Agreement, if applicable
 - 28.8. Other Documents incorporated by reference (if applicable)



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29. Additional Terms and Conditions: Unless expressly provided for herein, no additional terms and conditions included with Contractor's Response shall be evaluated or considered. Any and all such additional terms and conditions shall have no force and effect and are inapplicable to this Agreement. If submitted either purposefully through intent or design or inadvertently appearing separately in transmitting letters, specifications, literature, price lists (with the exception of the Fee Submission Proposal or Best and final Offer), or warranties, it is understood and agreed the general terms and conditions set forth herein are the only conditions applicable to this Agreement and the Proposer's authorized signature affixed to the proposal attests to this.

If Contractor, in the ordinary course of its business, requires any type of or form of agreement that provides for Contractor's general terms and conditions and such term(s) and condition(s) are contrary to or conflict with any term(s) or conditions(s) provided for herein, Parties unequivocally acknowledge and agree that the term(s) and condition(s) provided for herein shall take precedence and prevail including, but not limited to, instances when 1) the Contractor's form of agreement is signed subsequent to Contractor's Proposal submission and/or 2) the Contractor's form of agreement expressly states that its terms and provisions take precedence and/or supersedes all other Contract Documents. Such terms and conditions will effectively be void and unenforceable. Although, such terms and conditions may remain in Contractor's form of agreement, Parties acknowledge and agree that said terms and conditions have no effect, are void and are hereby expressly rejected.

30. Contract Award/Commencement: Submission of a response to CMHA's Solicitation constitutes acceptance of the terms of this Agreement. Upon issuance of award to Contractor, CMHA is accepting Contractor's offer contained in the Fee Submission and/or Best and Final Offer. **No other contractual documents will be necessary or accepted** unless specifically expressed in the Contract Award and Acceptance. The Contract commences upon the date specified in CMHA's execution and issuance of a Contract Award and Acceptance.

31. Executive Review. Contracts are subject to the written approval of CMHA's authorized representative and shall not be binding until so approved.



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HUD Table 1 for purchases under \$150,000:

MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES OTHER THAN CONSTRUCTION

The following contract clauses are required in contracts pursuant to 2 CFR 200 Appendix II(d) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and State law and regulations.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA 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 the contractor pursuant to the terms of this contract, including, but not limited to; Reports, memoranda or letters concerning the research, and reporting tasks of the contract.

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 (42 U.S.C. 6201) for the State in which the work under this contract is performed.

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.

Termination for Cause and for Convenience (contracts of \$10,000 or more).

a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the contractor to fulfill the contract obligations (cause/default). The PHA 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: (1) Immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.



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- b) If the termination is for the convenience of the PHA, the PHA 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 (cause/default), the PHA may (1) require the contractor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) 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 PHA; and (3) withhold any payments to the contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the contractor. In the event of termination for cause/default, the PHA shall be liable to the contractor for reasonable costs incurred by the contractor before the effective date of the termination. Any dispute shall be decided by the contracting officer.

Supplemental Terms for purchases under \$150,000:

Conflict of Interest. 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 with regard to this contract.

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.

Rights in Data (Ownership and Proprietary Interest). CMHA 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, drawings or letters concerning the research and reporting tasks of this Contract. For data other than computer software, the Contractor grants to CMHA and others acting on its behalf, a paid-up, nonexclusive, irrevocable, world-wide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of CMHA.

Examination and Retention of Contractor's Records. CMHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

ATTACHMENT D

CINCINNATI METROPOLITAN HOUSING AUTHORITY *PERFORMANCE STANDARDS FOR LEGAL SERVICES*

1. **Purpose:** This document sets out additional terms and conditions for Contractors providing legal services to CMHA.
2. **Conflicts of Interest:** Contractor shall be vigilant in identifying conflicts or potential conflicts of interests and the appearance of such conflicts. Contractor must discuss any existing or potential conflict with CMHA at the onset of the representation or as soon as the conflict becomes apparent. All existing and potential conflicts must be resolved to the satisfaction of CMHA before the representation may begin or continue.
3. **Confidentiality:** Contractor shall ensure that the attorney-client privilege, the work product doctrine, and other applicable privileges are fully retained for the benefit of CMHA.
4. **Files and Records:** Contractor should provide final copies of all research, strategy, and other analytical memos, substantive correspondence, transaction discovery, written discovery and court filings to CMHA.
5. **Contractor Obligations to HUD:** Contractor has an obligation not to and shall not, interfere with, disrupt, or inappropriately delay or hinder any authorized monitoring, review, audit, or investigative activity of HUD, the General Accounting Office, or the officers and employees of HUD and the General Accounting Office. Contractor shall comply with all applicable regulations pertaining to access to books, documents, papers, and records. Nothing contained herein shall limit or diminish Contractor's professional and ethical duty to CMHA.
 - 5.1. Contractor shall make available for inspection and copying, by HUD, the General Accounting Office, and the officers and employees of HUD and the General Accounting Office all invoices, detailed billing statements, and evidence of payment thereof relating to Contractors engagement except that Contractor shall have no duty to take any action it deems a violation of the applicable professional rules of conduct.
6. **Email:** Contractor will use discretion in all email communications. All privileged email communications should be prominently labeled as confidential.

7. Legal Fees, Statements, Costs and Adjustments

7.1. Legal Fees: CMHA agrees to pay for legal services on a basis set forth in the Contract Documents within approximately 30 days of receipt of properly completed invoices or acceptance of deliverable, whichever is later. If services are to be billed at an hourly rate specified only for the principal attorney, other attorneys and law clerks in the firm will be billed at rates proportionate to that of the principal attorney and commensurate with their experience and skills. Quoted hourly rates are good for the term of the Contract.

7.2. Legal Research: It is frequently necessary to investigate facts or pursue legal theories. CMHA will be billed for all hours reasonably expended on its behalf. Contractor shall obtain prior authorization for more than eight (8) hours of legal research on a single issue. Copies of memoranda prepared as a result of any research charged to CMHA shall be promptly provided to CMHA. Research memoranda should be accurate, organized and readily comprehensible.

7.3. Statements, Payments and Interest. All invoices must include the purchase order number and the date the invoice was sent to CMHA. Invoices shall not be backdated; the date on the invoice shall match the date the invoice is submitted to CMHA or the date the invoice is placed in the mail. Invoices which are not dated in accordance with this section will be rejected and the Contractor will need to submit a revised invoice to receive payment. If Contractor performs services without a Purchase Order, CMHA shall not be required to pay Contractor for those services. In addition, the billing statement must include a detail and summary portion as follows:

7.3.1. Detail Portion of Statement: The detailed portion must include: an itemized dated and detailed description of each legal service performed; the name and bill rate of the person performing the service; the amount of time spent performing the service; an itemized statement of expenses.

7.3.2. Summary Portion of Statement: The summary portion of the statement must include total hours worked during the billing period by each attorney and paralegal; any sums outstanding from prior invoices; a summary of all fees and expenses incurred from the inception of the matter through the end of the billing period

7.3.3. Collective Matters: If Contractor is working on multiple matters for CMHA, the invoices may be submitted collectively. However each page of the invoice must include the Contractor's name and the specific matter addressed on that page.

7.3.4. Invoices shall be submitted to Accounts Payable monthly either via e-mail to accounts.payable@cintimha.com or via mail to Cincinnati Metropolitan Housing Authority, Attention: Finance, 1635 Western Avenue, Cincinnati, Ohio 45214 for CMHA or to touchstoneap@cintimha.com for Touchstone Property Services.

The exception is invoices for development deals which shall be submitted before the financial closing of the deal to Geri Hernandez, Geri.Hernandez@cintimha.com.

8. Case Management:

- 8.1.** Contractor is authorized to take all actions which it deems advisable within the scope of representation, except to settle or otherwise dispose of any particular case. Contractor will notify CMHA of all significant developments and consult with CMHA in advance as to any significant decisions, except in emergencies where it is imperative a decision must be made without advance consultation.
- 8.2.** The assertion of any defenses or affirmative claims is dependent upon Contractor's investigation and conclusion that such defenses or claims are well grounded in fact and warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.
- 8.3.** Contractor shall delegate the work in a manner that ensures the most efficient and productive combination of expertise and economy.
- 8.4.** Collaboration with CMHA: CMHA is best served by a close and collaborative relationship with its Legal Service Providers. CMHA looks to Contractor for its expertise, as well as its judgment, skills and creativity. To facilitate collaboration, Contractor shall keep CMHA fully and timely apprised of all significant developments and consult with CMHA on all significant decision concerning legal tactics and strategy.
- 8.5.** Throughout the course of representation, Contractor will send CMHA pleadings, documents, correspondence, and other information pertinent to its representation of CMHA.
- 8.6.** When services conclude, including by reason of withdrawal or termination, Contractor, upon CMHA's request, will deliver the files along with any of CMHA's funds or property remaining in Contractor's possession.

8.7. Any funds Contractor holds in trust for CMHA shall be placed in a separate interest bearing account or in an IOLTA account.

9. **Limitations on Representation.** Contractor shall have no duty to take actions on CMHA's behalf which violate court rules or professional standards of ethics. During the pendency of this Agreement, Contractor shall not, without approval of CMHA and the United States Department of Housing and Urban Development, represent any officer or employee of CMHA, in his or her individual capacity, in connection with potential civil liability or criminal conduct issues related to CMHA operations.