



STATE OF HAWAII
CONTRACT FOR GOODS OR SERVICES
BASED UPON
COMPETITIVE SEALED PROPOSALS

This Contract, executed on the respective dates indicated below, is effective as of
 July 1, 2024, between Hawaii Public Housing Authority
(Insert name of state department, agency, board or commission)
 State of Hawaii ("STATE"), by its Executive Director
(Insert title of person signing for State)
 (hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")),
 whose address is 1002 North School Street, Honolulu, Hawaii 96817
 and
 ("CONTRACTOR"), a
(Insert corporation, partnership, joint venture, sole proprietorship, or other legal form of the Contractor)
 under the laws of the State of _____, whose business address and federal
 and state taxpayer identification numbers are as follows: _____

RECITALS

A. The STATE desires to retain and engage the CONTRACTOR to provide the goods or services, or both, described in this Contract and its attachments, and the CONTRACTOR is agreeable to providing said goods or services or both.

B. The STATE has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.

C. The solicitation for proposals and the selection of the CONTRACTOR were made in accordance with section 103D-303, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules, Title 3, Department of Accounting and General Services, Subtitle 11 ("HAR"), Chapter 122, Subchapter 6, and applicable procedures established by the appropriate Chief Procurement Officer ("CPO").

D. The CONTRACTOR has been identified as the responsible and responsive offeror whose proposal is the most advantageous for the STATE, taking into consideration price and the evaluation factors set forth in the request.

E. Pursuant to Section 356D-4, HRS
(Legal authority to enter into this Contract), the STATE
 is authorized to enter into this Contract.

F. Money is available to fund this Contract pursuant to:

(1) State Elderly Low Rent Public Housing Revolving Fund, State Family Low Rent Public Housing Revolving Fund, Fund 012
(Identify state sources)

or (2) Low Income Public Housing Operation Funds
(Identify federal sources)

or both, in the following amounts: State \$ TBD

Federal \$ TBD

NOW, THEREFORE, in consideration of the promises contained in this Contract, the STATE and the CONTRACTOR agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by the STATE, provide all the goods or services, or both, set forth in the request for competitive sealed proposals number PMB-09-2024 ("RFP") and the CONTRACTOR'S accepted proposal ("Proposal"), both of which, even if not physically attached to this Contract, are made a part of this Contract.

2. Compensation. The CONTRACTOR shall be compensated for goods supplied

or services performed, or both, under this Contract in a total amount not to exceed _____ DOLLARS (\$ _____), including approved costs incurred and taxes, at the time and in the manner set forth in the RFP and CONTRACTOR'S Proposal.

3. Time of Performance. The services or goods required of the CONTRACTOR under this Contract shall be performed and completed in accordance with the Time of Performance set forth in Attachment-S3, which is made a part of this Contract.

4. Bonds. The CONTRACTOR ☐ is required to provide or ☒ is not required to provide: ☐ a performance bond, ☐ a payment bond, ☐ a performance and payment bond in the amount of NA. _____ DOLLARS (\$ 0.00 _____).

5. Standards of Conduct Declaration. The Standards of Conduct Declaration of the CONTRACTOR is attached to and made a part of this Contract.

6. Other Terms and Conditions. The General Conditions and any Special Conditions are attached to and made a part of this Contract. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) this Contract, including all attachments and addenda; (2) the RFP, including all attachments and addenda; and (3) the Proposal.

7. Liquidated Damages. Liquidated damages shall be assessed in the amount of NA _____ DOLLARS (\$ 0.00 _____) per day, in accordance with the terms of paragraph 9 of the General Conditions.

8. Notices. Any written notice required to be given by a party to this Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice to the STATE shall be sent to the HOPA'S address indicated in the Contract. Notice to the CONTRACTOR shall be sent to the CONTRACTOR'S address indicated in the Contract. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the STATE in writing of any change of address.

IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the dates below, to be effective as of the date first above written.

STATE

(Signature)

Hakim Ouansafi

(Print Name)

Executive Director

(Print Title)

(Date)

CONTRACTOR

(Name of Contractor)

(Signature)

(Print Name)

(Print Title)

(Date)

CORPORATE SEAL

(If available)

APPROVED AS TO FORM:

Deputy Attorney General

* Evidence of authority of the CONTRACTOR'S representative to sign this Contract for the CONTRACTOR must be attached.



STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF _____)
) SS.
_____ COUNTY OF _____)

On this _____ day of _____, _____ before me appeared
_____ and _____, to me
known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are
_____ and _____ of
_____, the
CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said
instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said
instrument as the free act and deed of the CONTRACTOR.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of _____

My commission expires: _____

Doc. Date: _____ # Pages: _____

Notary Name: _____ Circuit _____

Doc. Description: _____

(Notary Stamp or Seal)

Notary Signature

Date

NOTARY CERTIFICATION



STATE OF HAWAII

**CONTRACTOR'S
STANDARDS OF CONDUCT DECLARATION**

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of _____, CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR ☐ is* ☐ is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

*Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By _____
(Signature)

Print Name _____

Print Title _____

Name of Contractor _____

Date _____



STATE OF HAWAII

SCOPE OF SERVICES

CONTRACTOR: _____

PROPERTIES: Asset Management Project 40:
Kuhio Homes and Kuhio Park Terrace Low Rise

Management Unit 42:
Hale Poai, Laiola, Kamalu, Hoolulu, and Halia Hale

Asset Management Project 43:
Ka Hale Kahaluu, Hale Hookipa, Kaimalino, Kealakehe, and Nani Olu

Asset Management Project 44:
Waimaha – Sunflower, Kauiokalani, Maili I, Maili II, and Nanakuli Homes

Asset Management Project 45:
Koolau Village, Hookipa Kahaluu, Kaneohe Apartments, Kauhale Ohana, Waimanalo Homes, and Waimanalo Homes II

Asset Management Project 46:
Noelani I, Noelani II, Hale Hauoli, Ke Kumu Ekolu, and Ke Kumu Elua

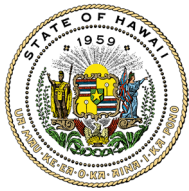
Asset Management Project 49:
Kauhale Nani, Wahiawa Terrace, and Kupuna Home O Waialua

Asset Management Project 50:
Palolo Valley Homes

Ke Kumu Ekahi

SERVICES: Property Management, Maintenance and Resident Services
RFP No. PMB-09-2024

1. It is understood and agreed that the following documents, and any amendments or addenda, comprise the Contract between the parties and govern the work to be performed by the CONTRACTOR for property management, maintenance and resident services at the Federal and State-Aided low income public housing (LIPH) properties under Asset Management Projects (AMPs) 40, 44, 45, 49, 50, Management Unit (MU) 42 on Oahu and AMPs 43, 46, and Ke Kumu Ekahi on Hawaii Island: (1) Contract for Goods and Services including the Contractor's Acknowledgement, Contractor's Standard of Conduct Declaration, Attachments S1, S2, S3, S4, and S5; (2) General Conditions, AG-008 103D General Conditions; (3) General Conditions for Non-Construction Contracts, Form HUD-5370-C; (4) Request for Proposals (RFP) number PMB-09-2024 and all addenda; and (5) CONTRACTOR's accepted proposal dated _____.



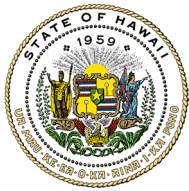
STATE OF HAWAII

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2. The CONTRACTOR shall, in a satisfactory and proper manner as determined by the HPHA, and in strict accordance with the terms and conditions of this Contract, provide property management, maintenance and resident services at the properties on Oahu and Hawaii Island as follows:

Oahu:

AMP/MU	Property	Program	Location
AMP 40	Kuhio Homes	Federal LIPH – Family	Ahonui St., Honolulu, HI 96819
	Kuhio Park Terrace Low Rise		Ahonui St. and Linapuni St., Honolulu, HI 96819
MU 42	Hale Poai	State LIPH – Elderly	1001 N. School St., Honolulu, HI 96817
	Laiola		1 & 15 Ihoiho Pl., Wahiawa, HI 96797
	Kamalu		94-941 Kauolu Pl., Waipahu, HI 96797
	Hoolulu		94-943 Kauolu Pl., Waipahu, HI 96797
	Halia Hale		851 N. School St., Honolulu, HI 96817
AMP 44	Waimaha - Sunflower	Federal LIPH – Family	85-186 McArthur St., Waianae, HI 96792
	Kauioakalani		85-658 Farrington Hwy, Waianae, HI 96792
	Mali I		Maliona St., Waianae, HI 96792
	Mali II		Keliikipi St., Waianae, HI 96792
	Nanakuli Homes		Lualei Pl. & Farrington Hwy, Waianae, HI 96792
AMP 45	Koolau Village	Federal LIPH - Family	45-1027 Kamau Pl., Kaneohe, HI 96744
	Hookipa Kahaluu		47-330 Ahuimanau Rd., Kaneohe, HI 96744
	Kaneohe Apartments		45-507 & 45-513 Pahia Rd., Kaneohe, HI 96744
	Kauhale Ohana		41-1260 Kalaniana'ole Hwy., Waimanalo, HI 96795
	Waimanalo Homes		Humuniki St. & Humuna Pl., Waimanalo, HI 96795
	Waimanalo Homes II		Humuniki St. & Humuna Pl., Waimanalo, HI 96795



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Oahu:

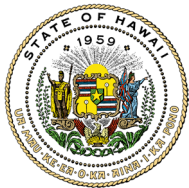
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AMP/MU	Property	Program	Location
AMP 49	Kauhale Nani	Federal LIPH – Family	310 North Cane St., Wahiawa, HI 96786
	Wahiawa Terrace		337 Palm St., Wahiawa, HI 96786
	Kupuna Home O Waialua	Federal LIPH – Elderly	67-088 Goodale Ave., Waialua, HI 96791
AMP 50	Palolo Valley Homes	Federal LIPH - Family	2129 Ahe St., Honolulu, HI 96816

Hawaii Island:

AMP	Property	Program	Location
AMP 43	Ka Hale Kahaluu	Federal LIPH – Family	78-6725 Makolea St., Kailua-Kona, HI 96740
	Hale Hookipa	Federal LIPH – Elderly	81-1038 Nani Kupuna Pl., Kealahakua, Hawaii 96750
	Kaimalino	Federal LIPH - Family	74-5060 Kealakaa St., Kailua-Kona
	Kealahakehe	Federal LIPH – Family	74-991 Manawale'a St., Kailua-Kona, HI 96740
	Nani Olu	Federal LIPH - Elderly	81-1011 Nani Kupuna Pl., Kealahakua, HI 96750
AMP 46	Noelani II	Federal LIPH – Family	65-1191 Opelo Rd., Kamuela, HI 96744
	Hale Hauoli	Federally LIPH – Elderly	45-540 Koniaka Pl., Honokaa, HI 96727
	Ke Kumu Ekolu	Federal LIPH - Family	68-3385 Ke Kumu Pl., Waikoloa, HI 96738
	Ke Kumu Elua	State LIPH - Family	68-3367 Ke Kumu Pl., Waikoloa, HI 96743
	Noelani I	Federal LIPH – Family	65-1189 Opelo Rd., Kamuela, HI 96743
n/a	Ke Kumu Ekahi	Family	68-3340 Ke Kumu Pl., Waikoloa, HI 96738

- In accordance with the Contract, the CONTRACTOR shall furnish all labor and other means necessary to provide property management, maintenance and resident services as described in the RFP PMB-09-2024 and in the CONTRACTOR's accepted proposal, which includes its clarifications and best and final offer. If there is a conflict between the CONTRACTOR'S accepted proposal and this Contract, the Contract shall prevail.



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4. Work Plan: Miscellaneous Employee Time

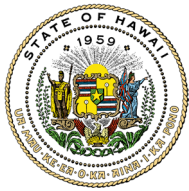
It is understood and agreed that the CONTRACTOR's work plan includes "miscellaneous employee time", which is defined as vacation, holiday and sick leave. The CONTRACTOR and its employees shall not be allowed to accrue vacation or sick leave beyond the term of the Contract. All unused vacation and sick leave must be forfeited at the end of the Contract period and each Contract period thereafter or at the end of each State Fiscal Year ending June 30th. The CONTRACTOR shall not convert vacation and/or sick leave credits to cash at the expense of the HPHA.

5. Management Requirements

The HPHA's overall objectives in transferring the management responsibilities for AMPs 40, 44, 45, 49, 50, and MU 42 on Oahu, and AMPs 43, 46 and Ke Kumu Ekahi on Hawaii Island to a private management firm shall include, without limitation the following:

- A. Maintain the overall physical appearance and condition of the properties, as well as the maintenance and upkeep of individual units.
- B. Provide a secure living environment, enforcing rules, local ordinances and the HPHA policies to reduce or eliminate the number of incidents of crime, vandalism, rule violation and nuisance behavior.
- C. Maintain the rent collection rate at 98 percent (98%) or higher for each property; limit rent delinquencies to two percent (2%) or lower for each property.
- D. Limit vacated tenant account receivables (TARS), to not greater than 10 percent (10%) of the outstanding balance each month.
- E. Maintain an occupancy level at 98 percent (98%) or better for each property inclusive of HUD-approved modernization units with eligible unit months (EUM) counting towards occupancy.
- F. Rehabilitate and clean vacated units to a marketable condition so that the unit is ready for occupancy and leased within the same month the tenant vacated. Vacated units referred and approved by the HPHA that require substantial renovation/construction shall be exempt from this turnaround requirement.

For Units vacated less than seven (7) business days prior to the end of the month, the unit(s) shall be rehabilitated and cleaned to marketable condition so that the unit is ready for occupancy and leased within seven (7) business days from the date the tenant vacated. Vacated units referred and approved by the HPHA that required substantial renovation/construction shall be exempt from the seven (7) business day turn around requirement.



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- G. Complete annual income re-examinations of tenant eligibility and rent determination 60 days prior to the annual examination date. The supervisor shall review 10 percent (10%) of all annual tenant income re-examinations and submit a monthly log of all files reviewed to the HPHA.
- H. Achieve and maintain a minimum score of 90 points under the National Standards for the Physical Inspection of Real Estate (NSPIRE) physical inspection component for all federal properties unless there are circumstances beyond the control of the CONTRACTOR and is acceptable to the HPHA.
- I. Implement and comply with the HPHA Language Access Policy and Plan, which provides for language assistance to limited English proficient program participants. Properly communicate with self-identified LEP tenants in their language through the use of interpreters or translated materials.
- J. Provide services in compliance with Title VI of the Civil Rights Act, Executive Order 13166, August 11, 2000, and Chapter 321C, Hawaii Revised Statutes (HRS), which prohibit the denial of benefits and discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance, or retaliation, and requires recipients of federal funds to take reasonable steps to ensure meaningful access to their programs and activities by Limited English Proficiency (LEP) persons. This requires the CONTRACTOR to have a Title VI and Language Access Policy and Plan. The HPHA may at any time request to review the policy and plan documents.
- K. Provide services in compliance with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and 42 U.S. Code 4852d, including without limitation issuance of notice to tenants, provide disclosure and informational pamphlets to tenants, and maintaining signed disclosure forms in AMP and tenant files.

Below are the properties that have been tested positive for lead-based paint:

AMP No.	Property
40	Kuhio Homes
50	Palolo Valley Homes

In the event that a tenant or household members test positive for lead, the CONTRACTOR shall report the incident to the HPHA within 24 hours of receiving the test results.

- L. Achieve a good community image and encourage community involvement in support of the Ke Kumu Ekahi, the properties at MU 42, and the properties at each of the AMPs.



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- M. Abide by the specified requirements, comply with all instructions relating to the management, rental and maintenance of Ke Kumu Ekahi, MU 42, and each of the AMPs that may be issued from time to time by the HPHA and adhere to all operating policies that have been or may be adopted and promulgated by the HPHA.
- N. Maintain good communication between tenants and management personnel.
- O. Encourage tenant participation and involvement in AMP/MU/LIHTC property activities.
- P. Support tenant pride of community through improved maintenance by management agent, and swift response to tenant maintenance and emergency maintenance calls.

6. **Federal Low Income Public Housing Program Requirements** (applicable to all properties under AMPs 40, 43, 44, 45, 49, 50, and 46 except for Ke Kumu Elua under AMP 46)

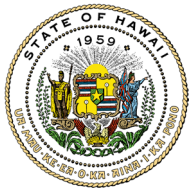
A. Public Housing Assessment System

The Public Housing Assessment System (PHAS) is a reporting system designed by HUD to institute a system of accountability and used to monitor and evaluate operations of Housing Authorities nationwide. While the current PHAS reporting system is an entity-wide assessment system, HUD has proposed a revision to the PHAS to a property-specific focus. The PHAS will continue to define acceptable public housing management standards for key areas of public housing management. The CONTRACTOR shall achieve an acceptable rating under the PHAS by maintaining the Federal LIPH properties in the following areas:

- 1) General Appearance and Security;
- 2) Follow-up and Monitoring of Project Inspections;
- 3) Maintenance and Modernization;
- 4) Financial Management;
- 5) Leasing and Occupancy;
- 6) Tenant/Management Relations; and
- 7) General Management Practices.

The PHAS standards for which the CONTRACT shall be accountable and will report to the HPHA on a monthly basis includes without limitation:

- 1) Vacancy Rate;
- 2) Unit Turnaround Time;
- 3) Work Order Performance;
- 4) Unit, Systems and Common Area Inspections and Conditions; and



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5) Tenant Accounts Receivables.

The CONTRACTOR will refer to the HUD website to become familiar with the proposed PHAS requirements detailed at the Federal Register 24 CFR Part 902.

The CONTRACTOR shall:

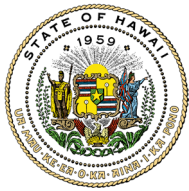
- 1) Conduct an annual inspection of all dwelling units to include major and regulated systems, and all accessible/inspectable exterior and common areas of each property to ascertain the physical conditions of each property in accordance with NSPIRE Standards, HUD regulations and 24 CFR Part 902.20.
- 2) Designate the AMP Manager and/or the CONTRACTOR's principal-in-charge to participate in the annual NSPIRE physical inspection of the properties for the entire inspection process.

B. Application, Selection and Placement

- 1) The HPHA will retain responsibility for assigning initial housing occupants to all housing units to include:
 - a) Maintaining the waiting list(s) with Applications Office for Oahu and with AMP 37 for Hawaii Island; and
 - b) Establishing a process with the AMP Manager for effective communication to minimize unit vacancy in accordance with applicable laws, rules or policies.

Upon establishment of site-based wait lists, the CONTRACTOR shall assume responsibility to maintain the wait lists.

- 2) The CONTRACTOR shall be responsible for the following minimum tasks:
 - a) Determine the eligibility of household members in accordance with all tenant selection policies instituted by the HPHA and in compliance with all applicable Federal Rules and Regulations. The CONTRACTOR shall certify compliance with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 as the HPHA's agent of Federal Low Income Public Asset Management Project Units and as deemed appropriate by the HPHA.
 - b) Notify applicants when units are to become available.



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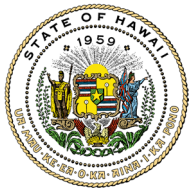
SCOPE OF SERVICES

- c) Conduct a walk-through unit inspection with new tenants at the time of placement. The CONTRACTOR shall also orient tenants on use, care and maintenance of a dwelling unit, appliances, and other assigned areas.
- d) Orient new tenants to rules and regulations, financial responsibilities, facilities, community amenities and resident services available.
- e) Maintain a tenant file with pertinent information on eligibility, family composition, including a list of family members residing in each unit, and other required information as instructed by the HPHA.
- f) Evaluate tenant requests for transfer to another AMPs/MU and prepare request to the HPHA where necessary.
- g) Manage the turnover of keys when a tenant occupies and vacates a unit and also maintain the key registry. The AMP Manager must be bonded for the handling of resident's keys and for entering units when residents are not present.

C. Vacates and Move Outs

The CONTRACTOR shall ensure the smooth transition for tenants moving out of public housing and provide the following minimum services:

- 1) Conduct a vacate inspection within 24 hours with the tenant present to inspect the unit and collect the unit keys from the tenant.
- 2) Conduct a final unit assessment and identify any deficiencies that may require correction, follow proper work order procedures, and address deficiencies within three (3) business days. Referrals of uninhabitable units for repair/renovation are to be handled by the HPHA Construction Management Branch (CMB). Referrals shall be completed within two (2) business days of vacancy. All requests to the CMB shall be in writing and submitted through the Contract Administrator.
- 3) Communicate effectively with the HPHA Application Services Unit to minimize unit vacancy. Applicants shall be processed for placement in a timely manner in order to achieve vacancies at a level of not higher than two percent (2%) for each property. Individual units shall be re-rented within seven (7) business days from the date of the previous tenant vacating the unit.
- 4) Ensure the proper documentation is completed and filed, and a vacant unit is filled within the required time frames.



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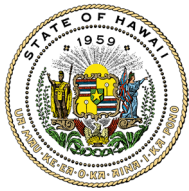
SCOPE OF SERVICES

- 5) Ensure that abandoned units are properly assessed and appropriate notice served. The date reflected on the notice will be considered the first day of vacancy.

D. Annual Income Re-examination

The CONTRACTOR shall conduct annual income examination, as required, informing tenants of their obligations and responsibilities, and provide the following minimum services:

- 1) Conduct and complete re-examinations of tenant eligibility and rent determination shall be completed in accordance with the HPHA policies and procedures on prescribed forms.
- 2) Complete annual income re-examinations of tenant eligibility and rent determination 60 days prior to the annual examination date. The CONTRACTOR shall review 20 percent (20%) of all annual tenant income re-examinations and submit a monthly log of all files reviewed to the HPHA.
- 3) Re-examinations shall be conducted, supervised, reviewed, and/or approved by staff certified in occupancy and rent calculation. Certification in occupancy and rent calculation must be by an independent third (3rd) party and approved by the HPHA.
- 4) Upon completion of the tenant re-examination, the CONTRACTOR shall make any adjustment to adjust tenant rent in accordance with the applicable housing program policies and procedures.
- 5) Communicate with the HPHA to upload the HUD Form 50058 to the Public and Indian Housing Information Center. Should the upload result in an error/fatal error, the CONTRACTOR shall make necessary corrections within 10 business days of being notified.
- 6) Evaluate eligibility status and update income and rent on each tenant's record on re-examination dates as established. The CONTRACTOR shall also advise the tenant of any changes in eligibility status resulting from re-examination and give proper notification of changes in rent or serve notification to vacate due to an ineligibility finding.
- 7) Submit and record appropriate adjustments in rent charges when tenant reports changes of family income and/or composition.
- 8) The CONTRACTOR shall have access to the Criminal Justice Information System or equivalent criminal justice data center as approved by the



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HPHA to fulfill the criminal background check requirement in conducting annual income re-examinations.

E. Tenant Defaults, Rental Agreement Terminations and Evictions

The CONTRACTOR shall respond to tenant defaults in a timely manner and in compliance with the HPHA rules and procedures for Rental Agreement terminations and evictions. The CONTRACTOR shall also provide the following minimum services:

- 1) Follow the HPHA rent collection and eviction procedures upon finding a tenant to be in default or in violation of any covenant, condition, provision, rule or regulation of the respective Rental Agreement or the subject unit. The eviction procedures include, without limitation, securing of services to serve written notices to tenants in default.

The HPHA policies on rent collection and evictions can be downloaded from the HPHA website and shall be incorporated by reference and may be amended from time to time.

- 2) File complaints with the HPHA Hearings Board, or other designated hearing body in accordance with State eviction procedure rules promulgated by the HPHA, as may be amended from time to time.
- 3) Represent the HPHA at scheduled complaint hearings. The HPHA shall schedule the hearing at the first available scheduled meeting of the Hearings Board, provided the HPHA has served the complaint notice to the tenant within five (5) business days prior to the hearing date.
- 4) Be available as a witness at scheduled proceedings.
- 5) Comply with all other requirements for Rental Agreement terminations and evictions that are or may hereafter be required by law and the STATE rules and regulations.
- 6) Cooperate with local law enforcement to address crime and safety issues in and around each property.

F. Accounting and Fiscal Services

The CONTRACTOR shall perform the following minimum services:

- 1) Develop an operating budget for each fiscal year (July through June) of this Contract subject to the HPHA approval not later than March of the preceding fiscal year or as determined by the HPHA, using a format as

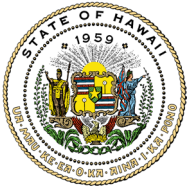


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specified by the HPHA. The CONTRACTOR's operations shall conform to the approved operating budget during the term of the Contract.

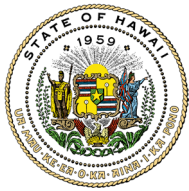
- 2) Record all tenant accounting transactions and input data pertaining to tenant rents, excess charges, and maintenance charges to the HPHA's computer system. All tenants shall be billed once per month by the HPHA.
- 3) Maintain tenant ledgers with records of all accounting transactions, including security deposits and a running balance on each account.
- 4) Inspect each unit in the presence of the tenant and make appropriate charges for damages prior to the tenant vacating the unit. The CONTRACTOR shall submit such charges as deductions to the tenant's security deposit or to be billed to the tenant in the request to the HPHA for security deposit refund such that a net refund amount can be issued within 14 days of the rental agreement termination date.
- 5) Make appropriate purchases for goods and services for the express and specific use for each AMP/MU within the approved AMP/MU budget following its procurement rules and regulations to promote competition and transparency. The CONTRACTOR shall be held responsible for all purchases of goods and services above and beyond the approved AMP/MU budget without prior approval of the HPHA.
- 6) Coordinate the subcontracting of the HPHA approved services at the AMP/MU following the HPHA and State procurement policies and any applicable State or Federal procurement rules and regulations.
- 7) Process all purchase orders for approval prior to ordering goods/services, except in the case of an emergency where verbal approval may be obtained. Failure to obtain prior approval on regular/routine purchases shall be considered a serious violation of procurement policy. In the cases where an after-the-fact purchase is not approved, the HPHA reserves the right to deduct an amount equal to the amount of the purchase from the CONTRACTOR's management fee as identified in Exhibit A of the Compensation and Payment Schedule.
- 8) The CONTRACTOR shall ensure all payments for goods/services received are issued within 30 days of receipt of invoice. If a payment is issued in excess of 30 days from the receipt date, the HPHA shall deduct the interest paid to the vendor in accordance with section 103-10, HRS, from the CONTRACTOR's management fee. This shall not apply in those cases where delay in payment is due to circumstances beyond the control of the CONTRACTOR and acceptable to the HPHA.



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- 9) Make all payments of liability insurances, salaries, wages, benefit contribution, and payroll taxes to or on behalf of all AMP/MU staff and maintain all payroll records. The CONTRACTOR shall submit a written request for reimbursement of such items to the HPHA within 30 days after each payroll period.
- 10) Make all payments for subcontracted services. The CONTRACTOR shall submit a written request for reimbursement of subcontracted services to the HPHA for approval within 30 days of payment issuance along with appropriate supporting document of payments made for services rendered.
- 11) Submit a monthly invoice for management fees to the HPHA within 30 days of delivery of service.
- 12) Submit monthly mileage reimbursement claim(s) due from the HPHA for the use of privately owned vehicle for conduct of AMP/MU business to the HPHA by the 15th of the following month. The AMP/MU staff shall forfeit the mileage reimbursement claim against the HPHA if the mileage reimbursement claim is not submitted by the 15th of the following month unless if the delay is due to circumstances beyond the control of the CONTRACTOR and acceptable to the HPHA.
- 13) Respond to findings of any independent, HUD or the HPHA audit of each AMP/MU by submitting a corrective action plan and implementing the plan.
- 14) Provide additional data requested by the HPHA utilizing current staff and personnel. Special studies or surveys requiring pertinent expertise requested by the HPHA shall not be deemed additional data.
- 15) Make all financial records concerning each AMP/MU available to the HPHA during normal business hours.
- 16) Make all payments for criminal background check fees. The CONTRACTOR shall submit a written request for reimbursement of criminal background check fees not earlier than once every two (2) weeks or semi-monthly to the HPHA. Such reimbursement request shall include appropriate supporting documentation of payments made by the CONTRACTOR.



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G. Reporting Requirements

The CONTRACTOR shall be responsible for the timely submission of reports on performance or progress, including without limitation:

- 1) Weekly Vacant Unit Report;
- 2) Monthly Supervisor's File Review Log;
- 3) Monthly Income Discrepancy Report;
- 4) Monthly Pre-Rent Run Report;
- 5) Quarterly Enterprise Identification Verification Users Authorization;
- 6) Monthly Community Service Status Report;
- 7) Monthly Annual Unit Inspection Work Order Log;
- 8) Monthly General Ledger Report;
- 9) Semi-Annual Limited English Proficiency Encounter and Cost Report;
- 10) Reasonable Accommodation Request Log;
- 11) Delinquency Account Report;
- 12) Semi-Annual Uniformed Information Practices Act Requests;
- 13) Double Subsidy or Deceased Report; and
- 14) Over Income Report.

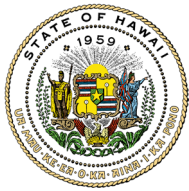
The HPHA may request additional reports including, without limitation:

- 1) Progress reports on the implementation of corrective action plans;
- 2) New programs mandated by HUD or the State;
- 3) Up-to-date Tenant Wait List; and/or
- 4) Special requests in response to inquiries from other government agencies, including the State Legislature.

H. Management Assistant (MA) Program (only applicable to Kuhio Homes and Kuhio Park Terrace Lowrise at AMP 40)

The CONTRACTOR shall implement a Management Assistant (MA) Program to dedicate personnel at AMP 40 to provide management presence after business hours, weekends, and State holidays. The MA program services shall include, without limitation:

- 1) Serve as direct liaison between management, residents and civil authorities, such as ambulance paramedic services, police and fire department;
- 2) Assist residents in emergency situations, language interpretation, housing rules and safety codes;
- 3) Manage entry gates for vehicle control, issue parking violation citations and assist in towing unauthorized vehicles; and



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- 4) MA Program schedule and personnel requirements shall be as follows:
 - a) One (1) person for entry gate 1, 24-hours daily including State holidays;
 - b) One (1) person for entry gate 2, 24-hours daily including State holidays;
 - c) Two (2) person roving patrol on weekdays, from 4:30 p.m. to 7:30 a.m. except on State Holidays; and
 - d) Two (2) person roving patrol on weekends and State holidays, 24 hours each day.
7. **State-Aided Low Income Public Housing Program Requirements** (applicable to all properties under MU 42 and Ke Kumu Elua under AMP 46)
 - A. Application, Selection and Placement

The CONTRACTOR shall be responsible for the following minimum tasks:

 - 1) Accept applications from prospective tenants.
 - 2) Maintain a wait list and notify applicants when units become available.
 - 3) Determine the eligibility of household members in accordance with all tenant selection policies as instructed by the HPHA and in compliance with all applicable Federal Rules and Regulations. The CONTRACTOR shall certify compliance with Title VI of the Civil Rights Act of 14964 and section 504 of the Rehabilitation Act of 1973 as the HPHA's agent.
 - 4) Conduct a walk-through unit inspection with new tenants at the time of placement. The CONTRACTOR shall also orient tenants on use, care and maintenance of dwelling unit, appliances, and other assigned areas.
 - 5) Orient new tenants to rules and regulations, financial responsibilities, facilities, community amenities and resident services available.
 - 6) Maintain a tenant file with pertinent information on eligibility, family composition, including a list of family members residing in each unit and other required information as instructed by the HPHA.
 - 7) Manage the turnover of keys when a tenant occupies and vacates a unit and also maintain the key registry. The CONTRACTOR must be bonded for the handling of resident's keys and for entering units when residents are not present.



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B. Vacates and Move Outs

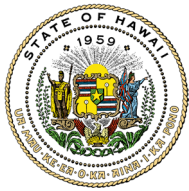
The CONTRACTOR shall ensure the smooth transition for tenants moving out of public housing and provide the following minimum services:

- 1) Conduct a vacate inspection within 24 hours with the tenant present to inspect the unit and collect the unit keys from the tenant.
- 2) Conduct a final unit assessment and identify any deficiencies that may require correction, follow proper work order procedures, and address deficiencies within three (3) business days. Referrals of uninhabitable units for repair/ renovation are to be handled by the HPHA Construction Management Branch (CMB). Referrals shall be completed within two (2) business days of vacancy. All requests to the CMB shall be in writing and submitted through the Contract Administrator.
- 3) Communicate effectively with the HPHA Application Services Unit to minimize unit vacancy. Applicants shall be processed for placement in a timely manner in order to achieve vacancies at a level of not higher than two percent (2%) for each property. Individual units shall be re-rented within seven (7) business days from the date of the previous tenant vacating the unit.
- 4) Ensure the proper documentation is completed and filed, and a vacant unit is filled within the required time frames.
- 5) Ensure that abandoned units are properly assessed and appropriate notice served. The date reflected on the notice will be considered the first day of vacancy.

C. Annual Income Re-examination

The CONTRACTOR shall conduct annual income examination as required, informing tenants of their obligations and responsibilities, and provide the following minimum services:

- 1) Conduct and complete re-examinations of tenant eligibility and rent determination shall be completed in accordance with the HPHA policies and procedures on prescribed forms.
- 2) Complete annual income re-examinations of tenant eligibility and rent determination 60 days prior to the annual examination date. The CONTRACTOR shall review 20 percent (20%) of all annual tenant income re-examinations and submit a monthly log of all files reviewed to the HPHA.



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- 3) Re-examinations shall be conducted, supervised, reviewed, and/or approved by staff certified in occupancy and rent calculation. Certification in occupancy and rent calculation must be by an independent third (3rd) party and approved by the HPHA.
- 4) Upon completion of the tenant re-examination, the CONTRACTOR shall make any adjustment to adjust tenant rent in accordance with the applicable housing program policies and procedures.
- 5) Communicate with the HPHA to upload the HUD Form 50058 to the Public and Indian Housing Information Center. Should the upload result in an error/fatal error, the CONTRACTOR shall make necessary corrections within 10 business days of being notified.
- 6) Evaluate eligibility status and update income and rent on each tenant's record on re-examination dates as established. The CONTRACTOR shall also advise the tenant of any changes in eligibility status resulting from re-examination and give proper notification of changes in rent or serve notification to vacate due to an ineligibility finding.
- 7) Submit and record appropriate adjustments in rent charges when tenant reports changes of family income and/or composition.
- 8) The CONTRACTOR shall have access to the Criminal Justice Information System or equivalent criminal justice data center as approved by the HPHA to fulfill the criminal background check requirement in conducting annual income re-examinations.

D. Tenant Defaults, Rental Agreement Termination and Evictions

The CONTRACTOR shall respond to tenant defaults at the State Public Housing Properties in a timely manner and in compliance with the HPHA rules and procedures for Rental Agreement terminations and evictions. The CONTRACTOR shall also provide the following minimum services:

- 1) Follow the HPHA rent collection and eviction procedures upon finding a tenant to be in default or in violation of any covenant, condition, provision, rule or regulation or of the respective Rental Agreement or subject property. The eviction procedures include, without limitation, securing of services to serve written notices to tenants in default.

The HPHA policies on rent collection and evictions can be downloaded from the HPHA website and shall be incorporated by reference as though set forth at length herein and as may be amended from time to time.



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- 2) Be available as a witness at scheduled proceedings.
- 3) Comply with all other requirements for Rental Agreement terminations and evictions that are or may hereafter be required by law and the HPHA rules and regulations.
- 4) Cooperate with local law enforcement to address crime and safety issues in and around each property.

E. Accounting and Fiscal Services

The CONTRACTOR shall perform the following minimum services:

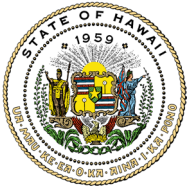
- 1) Develop an operating budget for each fiscal year (July through June) of this Contract subject to the HPHA approval not later than March of the preceding fiscal year or as determined by the HPHA, using a format as specified by the HPHA. The CONTRACTOR's operations shall conform to the approved operating budget during the term of the Contract.
- 2) Record all tenant accounting transactions and input data pertaining to tenant rents, excess charges, and maintenance charges to the HPHA's computer system. All tenants shall be billed once per month by the HPHA.
- 3) Maintain tenant ledgers with records of all accounting transactions, including security deposits and a running balance on each account.
- 4) Inspect each unit in the presence of the tenant and make appropriate charges for damages prior to the tenant vacating the unit. The CONTRACTOR shall submit such charges as deductions to the tenant's security deposit or to be billed to the tenant in the request to the HPHA for security deposit refund such that a net refund amount can be issued within 14 days of the rental agreement termination date.
- 5) Make appropriate purchases for goods and services for the express and specific use for each AMP/MU within the approved AMP/MU budget following its procurement rules and regulations to promote competition and transparency. The CONTRACTOR shall be held responsible for all purchases of goods and services above and beyond the approved AMP/MU budget without prior approval of the HPHA.
- 6) Coordinate the subcontracting of the HPHA approved services at the AMP/MU following the HPHA and State procurement policies and any applicable State or Federal procurement rules and regulations.



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- 7) Process all purchase orders for approval prior to ordering goods/services, except in the case of an emergency where verbal approval may be obtained. Failure to obtain prior approval on regular/routine purchases shall be considered a serious violation of procurement policy. In the cases where an after-the-fact purchase is not approved, the HPHA reserves the right to deduct an amount equal to the amount of the purchase from the CONTRACTOR's management fee as identified in Exhibit A of the Compensation and Payment Schedule.
- 8) The CONTRACTOR shall ensure all payments for goods/services received are issued within 30 days of receipt of invoice. If a payment is issued in excess of 30 days from the receipt date, the HPHA shall deduct the interest paid to the vendor in accordance with section 103-10, HRS, from the CONTRACTOR's management fee. This shall not apply in those cases where delay in payment is due to circumstances beyond the control of the CONTRACTOR and acceptable to the HPHA.
- 9) Make all payments of liability insurances, salaries, wages, benefit contribution, and payroll taxes to or on behalf of all AMP/MU staff and maintain all payroll records. The CONTRACTOR shall submit a written request for reimbursement of such items to the HPHA within 30 days after each payroll period.
- 10) Make all payments for subcontracted services. The CONTRACTOR shall submit a written request for reimbursement of subcontracted services to the HPHA for approval within 30 days of payment issuance along with appropriate supporting document of payments made for services rendered.
- 11) Submit a monthly invoice for management fees to the HPHA within 30 days of delivery of service.
- 12) Submit monthly mileage reimbursement claim(s) due from the HPHA for the use of privately owned vehicle for conduct of AMP/MU business to the HPHA by the 15th of the following month. The AMP/MU staff shall forfeit the mileage reimbursement claim against the HPHA if the mileage reimbursement claim is not submitted by the 15th of the following month unless if the delay is due to circumstances beyond the control of the CONTRACTOR and acceptable to the HPHA.
- 13) Respond to findings of any independent, HUD or the HPHA audit of each AMP/MU by submitting a corrective action plan and implementing the plan.
- 14) Provide additional data requested by the HPHA utilizing current staff and personnel. Special studies or surveys requiring pertinent expertise requested by the HPHA shall not be deemed additional data.



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- 15) Make all financial records concerning each AMP/MU available to the HPHA during normal business hours.
- 16) Make all payments for criminal background check fees. The CONTRACTOR shall submit a written request for reimbursement of criminal background check fees not earlier than once every two (2) weeks or semi-monthly to the HPHA. Such reimbursement request shall include appropriate supporting documentation of payments made by the CONTRACTOR.

F. Reporting Requirements

The CONTRACTOR shall be responsible for the timely submission of reports on performance or progress, including without limitation:

- 1) Weekly Vacant Unit Report;
- 2) Monthly Supervisor's File Review Log;
- 3) Monthly Income Discrepancy Report;
- 4) Monthly Pre-Rent Run Report;
- 5) Quarterly Enterprise Identification Verification Users Authorization;
- 6) Monthly Community Service Status Report;
- 7) Monthly Annual Unit Inspection Work Order Log;
- 8) Monthly General Ledger Report;
- 9) Semi-Annual Limited English Proficiency Encounter and Cost Report;
- 10) Reasonable Accommodation Request Log;
- 11) Delinquency Account Report;
- 12) Semi-Annual Uniformed Information Practices Act Requests;
- 13) Double Subsidy or Deceased Report; and
- 14) Over Income Report.

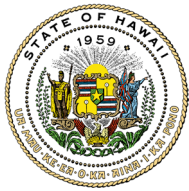
The HPHA may request additional reports including, without limitation:

- 1) Progress reports on the implementation of corrective action plans;
- 2) New programs mandated by HUD or the State;
- 3) Up-to-date Tenant Wait List; and/or
- 4) Special requests in response to inquiries from other government agencies, including the State Legislature.

8. Ke Kumu Ekahi Requirements

A. Application, Selection and Placement

The CONTRACTOR shall determine the eligibility of the applicants for housing, in compliance with all applicable HPHA Program rules and regulations. The CONTRACTOR shall develop a Tenant Selection Plan for the HPHA's approval



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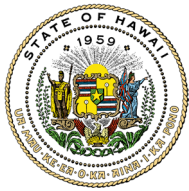
and shall submit updates as required. The CONTRACTOR shall certify compliance with Title VI of the Civil Rights Act of 1964. The CONTRACTOR shall also be responsible for providing the following services:

- 1) Solicit, accept and process applications from applicants for eligibility determination;
- 2) The CONTRACTOR is responsible for marketing the property;
- 3) Screening and selection of tenants in conformance with the HPHA Program, and the Fair Housing Law (Title VIII of the Civil Rights Act of 1968);
- 4) Processing of applicants for placement on a timely basis in order to limit vacancies to a level of not higher than two percent (2%). Individual units are to be re-rented within seven (7) days;
- 5) Conducting and documenting a unit inspection with new tenants prior to or at the time of placement in order to establish the condition of the unit and furnishings; and
- 6) Orienting new tenants to rules and regulations, financial responsibilities, facilities and services available.
- 7) Maintain a tenant file with pertinent information on eligibility, family composition, including a list of family members residing in each unit, and other required information.
- 8) Manage the turnover of keys and maintain the key registry. The CONTRACTOR must be bonded for the handling of resident's keys and for entering units when residents are not present.

B. Vacates and Move Outs

The CONTRACTOR shall ensure the smooth transition for tenants moving out of the property and provide the following minimum services:

- 1) Conduct a vacate inspection with the tenant present to inspect the unit and collect from the tenant the keys to the unit.
- 2) Conduct a final unit assessment and acknowledge any deficiencies that may require correction, follow proper work order procedures, and address those within three (3) business days.
- 3) Ensure that proper documentation is completed and filed, and a vacant unit is filled within required time frames.



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- 4) Ensure that abandoned units are properly assessed and referred as appropriate, using the date the abandoned unit was discovered as the first day of vacancy.
- 5) Manage unit vacancies, move outs, and abandoned units at the property in compliance with chapter 356D, HRS, and applicable rules and regulations.

C. Annual Income Re-examination

The CONTRACTOR shall conduct annual income examination as required, informing tenants of their obligations and responsibilities, and provide the following minimum services:

- 1) Conduct a recertification of tenant eligibility within 12 months of the previous certification and all required interim certifications in accordance with the program policies and procedures.
- 2) Review 20 percent (20%) of all recertifications conducted and submit a monthly log to HPHA staff. The CONTRACTOR's staff shall correct or adjust any part of the recertification as requested by HPHA.
- 3) Evaluate eligibility status and update income and rent charges on each tenant's record on recertification dates as established.
- 4) Advise the tenant of any changes in eligibility status resulting from recertification and provide 45 days written notification of changes in rent or serve written notification to vacate to the tenant, due to an ineligibility finding.
- 5) Make appropriate adjustments in rent charges when tenant reports changes of family income and/or composition.

D. Tenant Defaults, Rental Agreement Termination and Evictions

Upon finding a tenant to be in default or in violation of any covenant, condition, provision, rule or regulation of the Lease or pertaining to the property, the CONTRACTOR shall proceed as follows:

- 1) A written notice of default ("Notice of Default"), stating the nature of the default or violation and the specific facts, shall be served to the tenant and a copy maintained in the tenant's record. The notification of default shall contain a demand for curing the violation within the stated period of time, which shall be in the case of:
 - a) Failure to pay rent, 14 days from receipt of Notice of Default;



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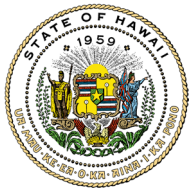
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- b) Creation or maintenance of a threat to the health or safety of other tenants, or the CONTRACTOR's affiliates and/or employees, a reasonable time commensurate with the urgency of the situation; and
 - c) In all other cases, 30 days from receipt of the Notice of Default.
- 2) The CONTRACTOR shall institute Rental Agreement termination and eviction proceedings for failure to cure the default within the stated period of time in the Notice of Default or in accordance with arrangements made pursuant to the informal meeting;
- 3) The determination to terminate shall not be for reasons other than:
- a) Serious or repeated violations of material terms of the covenants and conditions of the Lease, project rules and regulations;
 - b) Failure to make payments due under the Rental Agreement;
 - c) Failure to fulfill tenant obligations as set forth in the Lease; or
 - d) Other good cause.
- 4) The CONTRACTOR shall file or cause to be filed with the HPHA Hearings Office, a complaint to terminate the Lease in accordance with chapter 356D, HRS. The appropriate CONTRACTOR's staff shall be available as an HPHA witness at scheduled proceedings.
- 5) The CONTRACTOR shall comply with all other requirements for Rental Agreement terminations and evictions that are or may hereafter be required by law, and the HPHA rules and regulations.

E. Accounting and Fiscal Services

The CONTRACTOR shall perform the following accounting and fiscal services for the property:

- 1) Maintain a Tenant Accounting System for all transactions including rents, security deposits, and maintenance charges and keep a running balance on each account;
- 2) Maintain a cash and disbursement register to record operating receipts and disbursements;
- 3) Submit monthly accounting reports to the HPHA by the fifth (5th) business day of each month for the prior month reports to include without limitation: cash receipts and disbursements with copies of invoices, delinquencies, vacancies and project operating account and reserve account balances;



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- 4) Develop a proposed annual operating budget for the HPHA approval, using a format as specified by the HPHA. The CONTRACTOR's operations shall conform to the approved operating budget during the term of this Contract;
- 5) Bill tenants monthly and maintain tenant ledgers with records of all accounting transactions, including security deposits and maintain a running balance on each account;
- 6) Inspect each unit in the presence of the tenant and make appropriate charges for damages prior to the tenant vacating the unit. The CONTRACTOR shall submit such charges as deductions to the tenant's security deposit or to be billed to the tenant in the request to the HPHA for security deposit refund such that a net refund amount can be issued within 14 days of the rental agreement termination date;
- 7) Coordinate the subcontracting of the HPHA approved services to the property following the State procurement rules and regulations;
- 8) Pay operating expenses from the operating account established by the HPHA;
- 9) Make all payments of salaries, wages, benefit contribution, and payroll taxes to or on behalf of property staff, and maintain all payroll records. Reimbursement of such items shall be made from the operating account;
- 10) Submit for HPHA approval a monthly invoice for management fees earned to the HPHA prior to payment from the operating account;
- 11) Maintain a detailed listing of the property's fixed assets;
- 12) Respond to findings of any independent, Federal, State, or HPHA audit of the property by submitting a corrective action plan and implementing the plan;
- 13) Create any or all forms to provide informational and support data as required by the HPHA. The forms shall be in such a manner that all input data will be easily transferable to the HPHA or otherwise acceptable to the HPHA;
- 14) Provide additional data requested by the HPHA utilizing current staff and personnel. Special studies or surveys requiring pertinent expertise requested by the HPHA shall not be deemed additional data; and



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- 15) Make all property records concerning the property available to the HPHA, during normal business hours, as requested.

F. Reporting Requirements

The CONTRACTOR shall be responsible for the timely submission of reports on performance and progress, including without limitation:

- 1) Monthly Completed New Application(s) and Re-Certification(s);
- 2) Annual Low Income Tax Credit;
- 3) Annual Documentation of the Utility Allowance Calculation;
- 4) Monthly Project Status Report;
- 5) Monthly Financial Statement;
- 6) Monthly Income Register;
- 7) Monthly Bank Reconciliation;
- 8) Monthly Aged Receivables Summary/Delinquency; and
- 9) Monthly Tenant Ledger Reconciliation.

The HPHA may request additional reports, including without limitation:

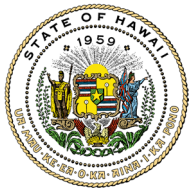
- 1) Progress reports on the implementation of corrective action plans;
- 2) New programs mandated by HUD or the State;
- 3) Up-to-date Tenant Wait List; and/or
- 4) Special requests in response to inquiries from other government agencies, including the Hawaii State Legislature.

10. Other Property Management Services for All Properties

A. Rules and Regulations

The CONTRACTOR shall perform basic property management functions such as enforcing all covenants and conditions of the Rental Agreement and the following minimum services:

- 1) Assist in the revision of the HPHA Rental Agreements upon request by the HPHA. The CONTRACTOR shall be responsible to ensure appropriate communication with tenants and the tenant association on proposed changes to the Rental Agreements.
- 2) Post notices of all rules and regulations pertaining to the properties at each AMP/MU 42/Ke Kumu Ekahi and enforce them. The CONTRACTOR shall ensure that rules and regulations are provided to tenants with language barriers upon request.
- 3) Assist the HPHA to conduct public meetings or hearings approximately twice a year, including without limitation, issuing/coordinating notices,



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securing meeting facilities, serving as hearing official, recording meeting minutes, providing recommendations and other related duties.

- 4) Follow-up on delinquent rent and other tenant charges in compliance with the HPHA rules and procedures.
- 5) Manage, maintain, administer and coordinate, the use of community rooms, spaces and all common yard areas, including without limitation, the community playground. Subject to the HPHA approval, the CONTRACTOR will be permitted to use the property's community activity facilities and other non-dwelling space for their intended purposes in accordance with State policies and regulation. The use of such space shall only be for the term of the Contract. No permit, lease or written agreement covering use of such space shall exceed the term of this Contract.

The CONTRACTOR shall be responsible for the loss or theft of any property within the non-dwelling space in the property area. The CONTRACTOR shall review periodically and keep current a listing of agencies and organizations using the HPHA space. The listing should include space assigned, name and purpose of organization and programs carried out at Ke Kumu Ekahi, the specific AMP and/or MU 42 property. The listing shall be made available to the HPHA upon request.

- 6) Obtain prior written approval from the HPHA and HUD to use dwelling units for non-dwelling purposes. The following are examples of allowable uses:
 - a) Use by a duly elected tenant association/council for office space and/or meeting facility.
 - b) Occupancy by a police officer to increase on-site security.
 - c) Use to promote economic self-sufficiency and anti-drug activities.
- 7) Implement and comply with the HPHA Reasonable Accommodation Policy and Procedures to accommodate tenants with disabilities.
- 8) Implement and comply with the HPHA Language Access Policy and Plan which provides for language assistance to limited English proficiency program participants.
- 9) Implement and comply with the HPHA Pet Ownership Policy which allows for pets in Federal LIPH Properties, subject to certain terms and conditions. Pets are not allowed in State LIPH Properties, specifically at Ke Kumu Elua under AMP 46 and all properties under MU42.



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- 10) Implement HUD's Community Service Requirement in compliance with HUD and the HPHA rules at the Federal LIPH Properties, including tracking and reporting of tenant compliance. The CONTRACTOR shall also at a minimum:
 - a) Inform all adult household members of their obligations under the community service requirement and verify their required participation or exemption;
 - b) Provide referrals to community organizations that afford tenants with opportunities to satisfy community service requirements;
 - c) Monitor tenant compliance monthly and provide required reports; and
 - d) Take appropriate action for non-compliance.
- 11) Implement all program changes as established in the Public Housing Agency Five Year and Annual (PHA) Plan, the Admissions and Continued Occupancy Policy (ACOP), the Hawaii Administrative Rules (HAR), and/or HUD mandates. Those changes, which are not known at this time, shall be incorporated by reference into this Contract.
- 12) In the event of a conflict between the PHA Plan, ACOP, HAR and HUD mandates, the CONTRACTOR shall be responsible to implement any changes as directed by the HPHA.

B. Maintenance

The CONTRACTOR shall maintain and repair the properties in a condition acceptable to the HPHA and in accordance with local and State laws, codes, and regulations and in accordance with the Budget and Maintenance Plan, including without limitation, providing routine and emergency/urgent repairs, renovating vacant units and providing preventive maintenance services for the units and its equipment, as well as providing grounds maintenance for the common areas and common facilities. Routine and emergency/urgent repairs shall include, without limitation, plumbing, electrical, and carpentry. Common areas and facilities shall mean and include, without limitation, parking lots and sidewalks. Maintenance activities should follow the HPHA's maintenance policies and procedures.

All staff employed and/or subcontracted shall be experienced and fully qualified to engage in the activities and perform the services required. The CONTRACTOR shall ensure all applicable licensing and operating requirements are in compliance with federal, state, and county laws. The CONTRACTOR shall also provide the following minimum services:



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- 1) Ensure that maintenance staff is qualified and capable of providing minor repair and preventive maintenance at each property. It is the sole responsibility of the CONTRACTOR to ensure that maintenance staff is qualified and properly trained to provide maintenance and repair services.
- 2) Ensure that maintenance staff is capable and properly trained in the HPHA work order system, including procedures for opening and closing of work orders, prioritization and timely response.
- 3) Maintain and repair units on a timely basis. The HPHA reserves the right to inspect and closely monitor the CONTRACTOR's activities and efforts to maintain and repair units.
- 4) Respond to requests for services as follows:
 - a) Routine maintenance services within two (2) business days from the date of such request; and/or
 - b) Emergency/urgent maintenance services shall occur not later than four (4) hours from the time of such request and shall be abated or resolved within 24 hours. Such emergency/urgent maintenance services shall be provided seven (7) days a week, 24 hours each day.
- 5) Maintain the grounds and all common areas of each property including, without limitation, entries, thoroughfares and lobbies in a clean and presentable condition at all times. The CONTRACTOR shall make certain all parking area surfaces are maintained in good condition, free from need of repair and free from derelict and/or abandoned vehicles.
- 6) Rehabilitate and clean vacated units to a marketable condition so that the unit is **ready for occupancy and leased in the same month it becomes vacant**. Vacated units referred and approved by the HPHA that require substantial renovation/ construction shall be exempt for this turnaround requirement.

For unit(s) vacated less than seven (7) business days prior to the end of the month, the unit(s) shall be rehabilitated and cleaned to a marketable condition so that the unit is **ready for occupancy and leased within seven (7) business days from the date the tenant vacated**. Vacated units referred and approved by the HPHA that require substantial renovation/construction shall be exempt from the seven (7) business day turnaround requirement.

- 7) Refer units that are considered uninhabitable and require substantial renovations/construction to the HPHA within two (2) business days of the



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final unit assessment/inspection. All referrals to the HPHA shall be submitted on the appropriate document (Form A) through the Contract Administrator.

- 8) Conduct an annual inspection of all dwelling units to include major and regulated systems, and all accessible/inspectable exterior and common areas of each property to ascertain the physical condition of each property as required by the HPHA.
- 9) Charge tenants for unit maintenance work in accordance with the Rental Agreement when repair work is required to repair damage other than ordinary wear and tear. The charges shall be consistent with HPHA policies.
- 10) Purchase services, supplies, materials and equipment as authorized and in accordance with the approved budget. The CONTRACTOR shall process all necessary documents to obtain state decal from the HPHA Contract and Procurement Office for any new equipment. The CONTRACTOR is responsible to ensure that all employees are properly trained in how to use and operate any new equipment safely. All such purchases shall be considered property of the HPHA and must be purchased and recorded as inventory in compliance with State rules.
- 11) Obtain prior written approval from the HPHA for maintenance expenditures over and above those authorized in the Budget and Maintenance Plan.
- 12) Store and safeguard necessary supplies at each property, maintain a perpetual written inventory; store and maintain equipment at each property. Such supplies, inventory and equipment shall be available for the HPHA inspection upon request.
- 13) Conduct extraordinary maintenance as scheduled or as approved by the HPHA.
- 14) Implement a preventive maintenance program, perform preventive maintenance services in each unit at least once a year and perform maintenance checks and corrections in all units entered during a tenant requested maintenance repair. Submit schedule of the preventive maintenance program to the HPHA.
- 15) Make all additions, betterments, and replacements as requested and approved by the HPHA on a cost-reimbursable basis. The HPHA shall make reasonable efforts to provide plans for substantial additions and/or replacements to the CONTRACTOR.



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- 16) Prepare and submit monthly reports on selected maintenance operations.
- 17) Provide pest control, tree trimming, and bulky item disposal services on an on-going, as-needed basis.
- 18) Provide refuse collection services on a regular basis in accordance with the refuse collection requirements as provided by the HPHA. All refuse areas, enclosures and receptacles shall be kept in a clean condition and in accordance with local, State, and Federal fire, safety and health codes.
- 19) Employ or designate an onsite Resident Maintenance Staff for the following properties:

AMP/MU	Property	Resident Maintenance Manager
MU 42	Hale Poai	1
	Halia Hale	1
	Laiola	1
	Kamalu	1
	Hoolulu	
AMP 49	Kapuna Home O Waialua	1
AMP 50	Palolo Valley Homes	1

The HPHA shall provide a dwelling unit for the Resident Maintenance Staff at the respective property at no cost to the CONTRACTOR. The Resident Maintenance Staff shall perform the following minimum services:

- a) Day-to-day on-site general maintenance;
- b) Perform variety of semi-scheduled maintenance repair work;
- c) Upkeep of buildings, dwelling units, and grounds;
- d) Assist tenants in emergency situations;
- e) Provide AMP/MU Manager with reports, oral or written concerning violations of the Rental Agreements and/or Project Rules, and maintenance issues; and
- f) Assist police, fire and emergency medical service personnel as needed.



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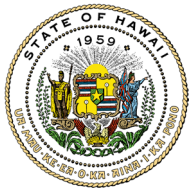
C. Office Space, Equipment, and Supplies

The CONTRACTOR shall be permitted to use any designated administrative office space, maintenance facility, and/or other equipment assigned for the expressed and specific use at the properties. All personal property belonging to the HPHA and located at the properties shall be under the custody and control of the CONTRACTOR at all times. The CONTRACTOR shall accept full responsibility for all equipment, except for normal wear and tear. The CONTRACTOR shall be fully responsible for stolen equipment or items when it is due to the CONTRACTOR's negligence, such as the failure to properly store and secure the HPHA properties. The HPHA reserves the right to deduct from the five percent (5%) management fee retainage for loss or damaged equipment or property.

The CONTRACTOR shall not close the AMP/MU 42/Ke Kum Ekahi administrative offices and maintenance facilities during normal business hours without prior written approval issued by the HPHA. Note that not all properties within each AMP/MU include a designated maintenance facility and/or maintenance storage facility.

The CONTRACTOR will perform the following minimum services:

- 1) Conduct an opening and closing inventory of equipment and supplies with the Contract Administrator upon the start and end date of the Contract.
- 2) Conduct an annual physical inventory of all equipment, materials and supplies located at each property. Upon 24 hours advance notice, the HPHA may conduct an inventory audit at each property.
- 3) Replace any consumable supplies in the current AMP/MU 42/Ke Kumu Ekahi inventory. The CONTRACTOR may forego the replenishment of supplies that are inventoried in excess of the reasonable needs of the AMP/MU 42/Ke Kumu Ekahi operating budget as developed by the CONTRACTOR and as approved by the HPHA.
- 4) Purchase supplies, materials, and equipment for the expressed and specific use at each property. Equipment purchases require prior written approval by the HPHA, shall be considered property of the HPHA and shall follow applicable State fixed asset rules and regulations.
- 5) Process necessary documents to obtain state decal from the HPHA Contract and Procurement Office for any new equipment. The CONTRACTOR is responsible that all employees are properly trained in how to use and operate any new equipment safely.
- 6) Process necessary documents to obtain proper approval to dispose of HPHA equipment and removal from Physical Inventory List.



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- 7) Comply with all State and Federal laws, regulations, rules, and policies regarding the procurement of goods, services and construction.
- 8) Ensure that all materials and supplies are properly entered into the materials inventory database and documented on work orders when used/pulled from inventory.
- 9) Use the CONTRACTOR's company letterhead for all correspondences with the HPHA.

D. Tenant Relations

The CONTRACTOR shall promote and maintain good relations with the tenants and shall perform the following minimum services:

- 1) Respond to all tenant requests involving concerns about the conditions or quality of life at each property in compliance with the HPHA complaint procedures such as grievance hearings and resolve all significant or recurring problems.
- 2) Work closely with and guide the tenant association toward tenant community involvement and participation in the State and Federal LIPH property activities.
- 3) Institute and maintain informative tenant communications to advise tenants of any changes in policies, rules, regulations, or pertinent and necessary instructional bulletins such as storm, fire, or hazard affecting the properties.
- 4) Coordinate the use of community rooms with each AMP/MU tenant association.

E. Supportive Services

The CONTRACTOR shall coordinate the following minimum services:

- 1) Advise residents of community services and programs available within the community to meet their needs.
- 2) Provide tenant orientation(s) on available community services and programs to ease their transition into government assisted housing.
- 3) Work with community agencies, organizations and tenant groups to promote and encourage improvement of supportive services for tenants.



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- 4) Provide guidance and/or referral services to appropriate agencies to assist tenants who are experiencing problems in money management, mental health, marital discord, abuse of a family household member, poor housekeeping, and other social problems.
- 5) Encourage a cohesive community within the tenant population of each property.
- 6) Provide access to community facilities to community organizations and non-profit agencies that provide services that are consistent with the HPHA's mission and goals.

F. Coordination of Renovation, Construction, and Relocation

- 1) The CONTRACTOR shall identify properties for renovation, construction, require major repairs and relocation of the tenants.
- 2) Relocation

In the event that a property undergoes major renovation/modernization, construction and/or major repairs involving the temporary relocation of tenants, the CONTRACTOR shall be responsible to assist with the following minimum services:

- a) Locate suitable temporary housing such as other public housing sites or private owned housing available on the open residential rental market. Maximum rents shall not exceed current Section 8 Fair Market Rent (FMR).
- b) Execute a Certificate of Right to Return, which certifies a tenant's right to return upon completion of the modernization construction.
- c) Process reimbursable costs to the tenant for all reasonable out-of-pocket expenses incurred, including the cost of moving to and from the temporary housing and incidental expenses to the HPHA.
- d) Upon completion of modernization construction and prior to move-in, conduct walk-through unit inspection and turn over keys with tenant.

In the event a property is to undergo renovation after the entire property is vacated, the CONTRACTOR's management fee shall be forfeited during that time period. Upon completion of the modernization construction, the HPHA will notify the CONTRACTOR of its ability to again earn the management fee on the renovated units.



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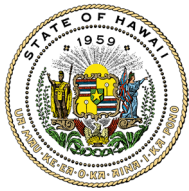
11. Administrative Requirements & Qualifications

A. Management Representative

- 1) The CONTRACTOR shall designate a contact person who will be responsible for oversight of all properties under the Contract and ensure Contract performance. The contact person shall respond to the HPHA's inquiries, complaints, and concerns within 24 hours, unless otherwise instructed in writing by the HPHA.
- 2) The HPHA Contract Administrator will send a monthly monitoring report to the CONTRACTOR's management representative. The monthly monitoring report will document discrepancies and Contract violations, which require correction. These discrepancies and Contract violations must be corrected or implemented within the period indicated in the notice issued by the HPHA.
- 3) The CONTRACTOR shall be solely responsible for adequate communication to its staff regarding Contract terms and conditions.
- 4) The CONTRACTOR shall ensure adequate and appropriate representation at regular meetings with the HPHA. The HPHA anticipates monthly meetings with the CONTRACTOR's contact person who will be responsible for oversight of Contract performance. Additional meetings may be required by the HPHA.

B. Personnel

- 1) All personnel shall be considered employees of the CONTRACTOR.
- 2) The CONTRACTOR shall ensure that all personnel meet the minimum qualifications, including State licensing laws and experience requirements. The current wage rates and position class specifications for management/maintenance personnel are available at <http://dhrd.hawaii.gov/state-hr-professionals/class-and-comp/>.
- 3) All staff training, including, without limitation, training required to ensure that the minimum services are provided in compliance with State/Federal laws, rules, and regulations, shall be the responsibility of the CONTRACTOR. However, should any specific or extraordinary training be required of the CONTRACTOR, the HPHA may require attendance at no cost to the CONTRACTOR.
- 4) The CONTRACTOR shall participate in annual Fair Housing training, which may be offered by the HPHA or an outside agency. It is the responsibility of the CONTRACTOR to secure annual training for its staff, including without



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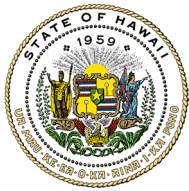
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limitation, AMP/MU 42/Ke Kumu Ekahi Manager, Public Housing Specialist(s), Maintenance Supervisor and other site staff.

- 5) The CONTRACTOR shall be responsible for training its own employees on both state and federal laws regarding language access prior to the issuance of the Notice to Proceed and that its employees are certified annually thereafter. The CONTRACTOR shall provide acceptable documentation as evidence that staff has completed the training, such as a sign-in/sign-out sheet.
- 6) The CONTRACTOR shall be solely responsible for the behavior and conduct of their employees or agents on the HPHA property. Supervision and performance evaluation shall be the responsibility of the CONTRACTOR. The HPHA shall be provided with access to employee performance evaluations, upon request, for the purposes of monitoring.
- 7) The CONTRACTOR with the concurrence of the HPHA shall hire a responsible employee as the Manager for Ke Kumu Ekahi, MU 42, and each AMP who will be available during normal State of Hawaii operating hours, Monday thru Friday from 7:45 a.m. to 4:30 p.m., except for holidays observed by the Hawaii State government, as a point of contract for the residents and the HPHA. The respective Ke Kumu Ekahi, MU 42, and AMP Managers shall, at a minimum, respond to tenant concerns, supervise staff, enforce house rules, monitor vacancy rates, tenant accounts receivables, inspect the housing units and encourage tenant organization and participation.
- 8) The AMP Managers, MU 42 Manager, and the Ke Kumu Ekahi Manager shall be certified in the following with certifications dated within one (1) year of the Contract start date:
 - a) Certified Specialist Public Housing Manager (CS-PHM) or Accredited Residential Manager (ARM) or Certified Apartment Manager (CAM),
 - b) Public Housing Certified Occupancy Specialist, and
 - c) Public Housing Rent Calculation.

Alternatively, the Managers shall obtain and maintain renewal of its certification within six (6) months from the Contract start date, unless there are circumstances beyond the CONTRACTOR's control, which are acceptable to the HPHA.

- 9) The AMP Managers, MU 42 Manager, and the Ke Kumu Ekahi Manager and Working Foreman or equivalent shall be trained on the NSPIRE requirements dated within three (3) years of the Contract start date. Alternatively, the Managers and Working Foreman or equivalent shall



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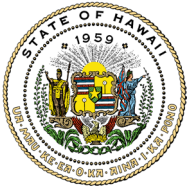
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complete the UPCS training or re-training within six (6) months of the Contract start date, unless there are circumstances beyond the CONTRACTOR's control, which are acceptable to HPHA.

- 10) The CONTRACTOR shall employ or subcontract at a minimum a Carpenter, a licensed Plumber, and a licensed Electrician to repair and improve the properties under each AMP, MU42 and Ke Kumu Ekahi. The CONTRACTOR shall provide evidence of valid license for the plumber and electrician or subcontractor licenses to the HPHA.
- 11) The CONTRACTOR shall provide the HPHA with an email address for the Ke Kumu Ekahi Manager, MU 42 Manager, and each of the AMP Managers.
- 12) The CONTRACTOR shall provide the HPHA with an after-hour contact phone number for the Ke Kumu Ekahi Manager, MU 42 Manager, each AMP Manager, and the Working Foreman or equivalent.
- 13) The CONTRACTOR shall not institute additional or alternative paid holidays, including without limitation, the closure of business days at the expense of the HPHA and /or without express written consent by the HPHA.
- 14) The CONTRACTOR shall ensure the confidentiality of all information, documents, or materials viewed, discussed or provided to personnel concerning the housing tenant residents of each of the properties. The CONTRACTOR's personnel shall not provide confidential information to the tenants and the general public without express written consent of the HPHA.
- 15) During the performance of this Contract, the CONTRACTOR agrees not to discriminate against any employee or applicant for employment. The CONTRACTOR will take affirmative action to ensure equal treatment of its employees. Such action shall include without limitation, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONTRACTOR shall insert similar provisions in all subcontracts.

Furthermore, if 15 or more persons are employed, the CONTRACTOR agrees and shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees that it does not discriminate on the basis of handicap, pursuant to 24 CFR Part 8, section 8.54(a) – Notice.

- 16) The CONTRACTOR agrees to remove any of its employees from servicing or providing services to the HPHA upon request in writing by the Officer-In-Charge. At the request of the HPHA and in its discretion: The CONTRACTOR shall remove forthwith and shall not employ in any portion



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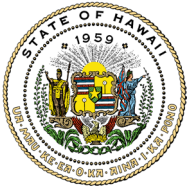
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of the work, any person who does not perform his/her duties and responsibilities in a proper and skillful manner or is intoxicated or disorderly or is abusive or unable to demonstrate tact and diplomacy in dealing with the public.

- 17) The CONTRACTOR shall conduct a nationwide criminal background check on all personnel employed at each property and be made available upon request by the HPHA.
- 18) The CONTRACTOR agrees to remove any of its employees who is arrested for any major crime or felony, pending final resolution of the investigation. The HPHA has final authority to allow the individual to perform the duties under this Contract pending investigation, resolution or conviction. A resulting conviction will disqualify the individual from performing work in any capacity under this Contract.
- 19) The CONTRACTOR shall ensure that no employee employed under this Contract has been arrested or convicted of selling, dealing, or using controlled substances, including without limitation, crystal methamphetamine in or around any State or Federal public housing under the jurisdiction of the HPHA.
- 20) The CONTRACTOR shall not employ an employee under this Contract who is a registered sex offender in any State, Indian Country or U.S. territory. At any time during the Contract term, if it is discovered by the HPHA or by the CONTRACTOR that an employee working at a property is a registered sex offender, the CONTRACTOR shall immediately dismiss this person from employment under this Contract.
- 21) The CONTRACTOR shall provide to the HPHA photo release authorization to use its staff photos in HPHA publication(s) and/or the HPHA website.

C. Business Use of Privately Owned Vehicles

The CONTRACTOR shall provide vehicle(s) to conduct operations at the properties under the resulting contract, including without limitation, administrative and maintenance functions for meetings, mail runs, site inspections, travel between properties, and pick up of maintenance equipment and/or materials.



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D. Administrative Policies

At a minimum, the CONTRACTOR shall maintain its own written policies that address the following:

- 1) Drug Free Workplace Policy;
- 2) Sexual Harassment Awareness in the Workplace Policy;
- 3) Non-Violence in the Workplace Policy;
- 4) Standards of Conduct;
- 5) Conflict of Interest;
- 6) Fair Housing Policy;
- 7) Safety Plan or Policies; and
- 8) Procurement Policy and Procedures.

The CONTRACTOR shall disclose all conflicts of interest between the CONTRACTOR's organization and the AMP/MU/LIHTC residents to the HPHA. An initial written conflict of interest disclosure shall be submitted by the CONTRACTOR within seven (7) business days of the HPHA's issuance of a Notice to Proceed. Subsequent conflicts of interest disclosures shall be submitted to the HPHA every six (6) months, regarding personnel changes in the CONTRACTOR's organization and/or changes in the AMP/MU/LIHTC resident population.

The CONTRACTOR's procurement policy and procedures shall be in accordance with all applicable federal and state procurement rules to ensure a competitive process for selection of service providers. All service providers and/or subcontractors selected to render services under this Contract shall be in compliance with the CONTRACTOR's procurement policy.

The CONTRACTOR shall provide written documentation not later than 15 days after the notice to proceed to confirm that all staff are informed of its requirements and agree to comply with said policies. The CONTRACTOR shall provide written verification for the completion of required policies from each employee. The CONTRACTOR shall be solely responsible for the conduct of its employees and for their compliance with its administrative policies.



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COMPENSATION AND PAYMENT SCHEDULE

CONTRACTOR: _____

PROPERTIES: Asset Management Project 40:
Kuhio Homes and Kuhio Park Terrace Low Rise

Management Unit 42:
Hale Poai, Laiola, Kamalu, Hoolulu, and Halia Hale

Asset Management Project 43:
Ka Hale Kahaluu, Hale Hookipa, Kaimalino, Kealakehe, and Nani Olu

Asset Management Project 44:
Waimaha – Sunflower, Kauiokealani, Maili I, Maili II, and Nanakuli Homes

Asset Management Project 45:
Koolau Village, Hookipa Kahaluu, Kaneohe Apartments, Kauhale Ohana, Waimanalo Homes, and Waimanalo Homes II

Asset Management Project 46:
Noelani I, Noelani II, Hale Hauoli, Ke Kumu Ekolu, and Ke Kumu Elua

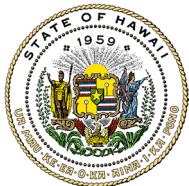
Asset Management Project 49:
Kauhale Nani, Wahiawa Terrace, and Kupuna Home O Waialua

Asset Management Project 50:
Palolo Valley Homes

Ke Kumu Ekahi

SERVICES: Property Management, Maintenance and Resident Services
RFP No. PMB-09-2024

1. Subject to the availability, allocation and receipt of funds, and the CONTRACTOR's full and timely performance of all contractual obligations, the STATE agrees to pay the CONTRACTOR an amount of compensation not to exceed _____ and ___/100 Dollars (\$_____) for the initial Contract period as follows:
 - a. Subject to the availability and receipt of Federal funds under the Annual Contributions Contract and Section 161 of the Housing & Community Development Act of 1992 (HCDA 1992), Public Law 102-550, approved October 28, 1992, the STATE agrees to pay the CONTRACTOR for services satisfactorily performed under this Contract a sum of money not to exceed _____ and ___/100 Dollars (\$_____) for the initial Contract period.



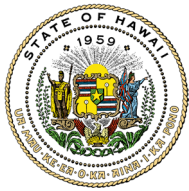
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COMPENSATION AND PAYMENT SCHEDULE

- b. Subject to the availability and receipt of State funds, the STATE agrees to pay the CONTRACTOR for services satisfactorily performed under this Contract a sum of money not to exceed _____ and ___/100 Dollars (\$_____) for the initial Contract period.

See attached and incorporated Exhibit A.

2. Federal funds shall be subject to appropriation by the U.S. Congress and allocation by the U.S. Department of Housing and Urban Development (HUD). Funding and period of availability may change upon notice by HUD to the STATE. If there should be insufficient funds for any portion of the remainder of the Contract period beyond the initial 12-month period, the STATE may terminate the Contract or revise the amount/quantity of services required without penalty.
3. State funds shall be subject to appropriation by the State Director of Finance and allocation by the Governor and/or State Legislature. Funding and period of availability may change upon notice by the STATE. If there should be insufficient funds for any portion of the remainder of the Contract period(s) beyond the initial 12-month Contract period, the STATE may terminate the Contract or revise the amount/quantity of services required without penalty.
4. The CONTRACTOR shall be paid on a cost reimbursement basis for personnel and direct operational expenditures related to the management, maintenance and resident services as accepted in the price proposal and/or as allowable by the HPHA. All costs incurred must be supported by verifiable evidence that payment was made such as payroll records, invoices, receipts. No profit shall be allowed on reimbursable expenditures. Said compensation consists of (i) Management Fee and (ii) Reimbursement for Expenses including salaries; medical and fringe benefits; payroll taxes; and other reimbursable expenses including insurance, payroll processing fee, and excise tax. Reimbursements are set forth on the attached Price Proposal dated _____. See Exhibit A.
5. Invoices for reimbursement of price proposal expenditures shall be submitted on separate invoices for Ke Kumu Ekahi, each AMP and MU 42 and billed not earlier than once every two (2) weeks or semi-monthly.
6. Invoices for management fees shall be submitted on separate invoices for Ke Kumu Ekahi, each AMP and MU 42 and shall be earned based on the number of occupied units for each month. Management fee invoices shall be billed monthly and submitted not earlier than the 1st of the following month. The Successful Offeror shall submit documentation indicating the number of units occupied for the requested period.
7. The CONTRACTOR's management fee shall be calculated monthly on an earned fee basis for each occupied unit under each AMP/MU/LIHTC property and shall not exceed _____ and ___/100 Dollars (\$_____) per month and _____ and ___/100 Dollars (\$_____) for the Contract period for



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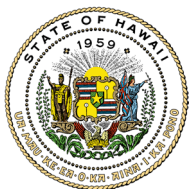
COMPENSATION AND PAYMENT SCHEDULE

property management, maintenance and resident services satisfactorily performed as follows:

AMP/MU/Property	Management Fee Per Occupied Unit Per Month	Maximum Management Fee Per Month	Maximum Management Fee for the Contract period
AMP 40			
MU 42			
AMP 43			
AMP 44			
AMP 45			
AMP 46 - Federal Properties			
AMP 46 - State Properties			
AMP 49			
AMP 50			
Ke Kumu Ekahi			
Total			

Occupied units shall be defined as follows:

- a. Units occupied for the entire reporting month;
 - b. Units partially occupied for the reporting month;
 - c. Vacant units slated by the STATE for modernization and approved by HUD;
 - d. Vacant units referred by the CONTRACTOR to the STATE for repair and approved by HUD; and
 - e. Vacant units approved by HUD for special purposes.
8. The CONTRACTOR's earned management fee for each month shall be determined by the completion of the below six (6) components and sub-components of the CONTRACTOR's management work plan:



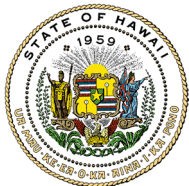
STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

Management Plan Components / Sub-Components		Percentage Allocation
1)	Administrative Requirements a) Supervisor's Review of Re-Exams (20%) b) EIV Authorization (due quarterly) c) Community Service (at placement and annually reviewed) d) Crime Reports (incidents logged and quarterly reporting) e) Pre-Rent Run (due by rent run) f) Occupancy Rate (98% or higher)	10%
2)	Re-Examinations, Rent Collection and Tenant Account Receivables a) Re-exams (100%) b) Delinquency Rate (2% or below) c) 90 Day Accounts (all accounts following rent collection policy)	35%
3)	Unit, Common Area & Grounds Maintenance (Site Visit Assessment)	10%
4)	Unit Turnover (within the month or 7 days or less)	25%
5)	Work Order System a) Emergency Work Orders (closed/abated within 24 hours) b) Non-Emergency Work Orders (average closed within 2 business days or less)	10%
6)	Routine and Preventive Maintenance a) Units b) Buildings c) Site	<u>10%</u>
Total		100%

The percentage allocation assigned to each component shall be used for the purpose of determining the CONTRACTOR's management fee earned. In the event that the CONTRACTOR fails to comply with any of the sub-components of the CONTRACTOR's management work plan, the respective percentages assigned to the component of the management fee will not be earned and will be deducted from the CONTRACTOR's management fee invoice for the month.

9. The STATE shall retain five percent (5%) from each monthly management fee billing as a withholding until final settlement of the initial Contract period. The STATE shall retain five percent (5%) from each monthly management fee as a withholding until final settlement of each Contract extension period. Requests for payment shall be submitted at the end of each Contract period and shall detail the gross amount requested, the five percent (5%) withholding amount and the net amount requested. Release of the five



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COMPENSATION AND PAYMENT SCHEDULE

percent (5%) retainage shall be subject to final settlement of each applicable Contract period. The total withholding amount shall not exceed five percent (5%) of the total Contract amount.

10. The CONTRACTOR shall be reimbursed for subcontracted operational expenditures related to the management, maintenance and resident services of the properties as deemed appropriate by the HPHA, including without limitation carpentry, electrical, plumbing, pest control, tree trimming, refuse collection, bulky item disposal, and criminal background check fees related to tenant income re-examination/certification processing. The CONTRACTOR shall submit appropriate documentations as evidence the costs incurred.

Invoices for reimbursement of subcontracted operational expenditures shall be submitted on a separate invoice for Ke Kumu Ekahi, MU 42 and each of the AMPs and billed to the HPHA not earlier than once every two (2) weeks or semi-monthly. Payment will be made through other means such as a State Purchase Order.

11. The CONTRACTOR shall be reimbursed for business use of privately owned vehicle(s) for site operations under the Contract in accordance with the standard mileage rate announced by the Internal Revenue Service and adopted by the STATE.

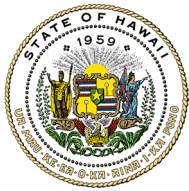
Invoices for mileage reimbursement shall be submitted to the HPHA on separate invoices for Ke Kumu Ekahi, MU 42 and each of the AMPs and billed not later than the 15th of the following month. The CONTRACTOR's site personnel shall forfeit the mileage reimbursement claim against the HPHA if the mileage reimbursement claim is not submitted by the 15th of the following month, unless the delay is due to circumstances beyond the control of the CONTRACTOR and determined acceptable to the HPHA. Payment for mileage reimbursement will be made through other means such as a State Purchase Order.

12. Upon execution of the Contract, payments shall be paid in accordance with and subject to the following:

- a. CONTRACTOR shall submit original invoice(s) for services rendered to:

Hawaii Public Housing Authority
Property Management and Maintenance Services Branch
P.O. Box 17907
Honolulu, HI 96817

- b. Pursuant to section 103-10, HRS, the STATE shall have 30 calendar days after receipt of invoice or satisfactory delivery of goods or performance of the services to make payment. Upon receipt of the invoice, the HPHA shall date stamp the invoice and use this receipt date to calculate the 30-day payment period. For purposes of this paragraph, the CONTRACTOR's invoice date shall not be considered.



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

- c. All invoices shall reference the Contract number assigned to this Contract and identify the Ke Kumu Ekahi, MU 42, or the specific AMP in which services were rendered. Payment shall be in accordance with section 103-10, HRS, upon certification by the Contractor Administrator that the CONTRACTOR has satisfactorily performed the services specified.
 - d. Invoice for the month of June shall be submitted to the HPHA by the 20th of June for work performed for the period from June 1st to June 15th for payment processing in order to comply with the HPHA's fiscal year-end close out processes. For work performed for the period from June 16th to June 30th, the invoice shall be submitted to the HPHA not later than July 15th for payment processing.
 - e. For final payment, the CONTRACTOR must submit a valid tax clearance certificate. A valid tax clearance certificate shall be dated not more than two (2) months from the last approval date with an original green certified copy stamp. A valid Hawaii Compliance Express Certificate of Vendor Compliance in lieu of the tax clearance certificate is acceptable.
9. The STATE shall consider requests for salary increases as a result of an increase to public officers and employees' salaries during the Contract period or any option period. It is the sole responsibility of the CONTRACTOR to comply with section 103-55, HRS.



STATE OF HAWAII

TIME OF PERFORMANCE

CONTRACTOR: _____

PROPERTIES: Asset Management Project 40:
Kuhio Homes and Kuhio Park Terrace Low Rise

Management Unit 42:
Hale Poai, Laiola, Kamalu, Hoolulu, and Halia Hale

Asset Management Project 43:
Ka Hale Kahaluu, Hale Hookipa, Kaimalino, Kealakehe, and Nani Olu

Asset Management Project 44:
Waimaha – Sunflower, Kauiokealani, Maili I, Maili II, and Nanakuli Homes

Asset Management Project 45:
Koolau Village, Hookipa Kahaluu, Kaneohe Apartments, Kauhale Ohana, Waimanalo Homes, and Waimanalo Homes II

Asset Management Project 46:
Noelani I, Noelani II, Hale Hauoli, Ke Kumu Ekolu, and Ke Kumu Elua

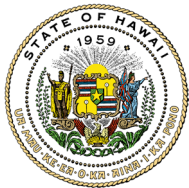
Asset Management Project 49:
Kauhale Nani, Wahiawa Terrace, and Kupuna Home O Waialua

Asset Management Project 50:
Palolo Valley Homes

Ke Kumu Ekahi

SERVICES: Property Management, Maintenance and Resident Services
RFP No. PMB-09-2024

1. The term of this Contract shall be for a 12-month period beginning July 1, 2024, 12:00 a.m. Hawaii Standard Time (HST) and ending June 30, 2025, 11:59 p.m. HST.
2. No services shall be performed on this Contract before a Notice to Proceed is issued. Any services rendered performed prior to receipt of the Notice to Proceed shall be at the CONTRACTOR's sole risk and expense.



STATE OF HAWAII

TIME OF PERFORMANCE

3. The option to extend the Contract shall be at the sole discretion of the STATE. The Contract may be extended, without the necessity of resoliciting, at the same rates as listed in the accepted proposal unless price adjustments are made and approved as provided in the Request for Proposals No. PMB-09-2024 or this Contract:

Initial term of Contract:	12 months
Length of each extension:	Up to 12 months
Maximum length of Contract:	60 months

4. The initial Contract period shall commence on the Contract start date. The following conditions must be met for an extension:
- The CONTRACTOR experienced cost savings and has unexpended funds available that can be used to provide additional services; or
 - The STATE determines there is an ongoing need for the services and has funds to extend services of up to 48 months with no extension to exceed a 12-month period. The Contract extension(s) shall be awarded at the same or comparable rates as the current Contract; and
 - A Supplemental Contract must be executed prior to expiration of the current Contract period; and
 - The STATE may be required to obtain the U.S. Housing and Urban Development (HUD) approval in writing of the extension prior to execution of a Supplemental Contract if federal HUD funds are to be used as a funding source; and
 - The CONTRACTOR must obtain written approval and a Notice to Proceed by the STATE with the extension; and
 - The STATE has determined that the CONTRACTOR has satisfactorily provided services during the current Contract term; and
 - Necessary State and/or Federal funds are appropriated, allotted and received for an extension.



STATE OF HAWAII

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development ("DHRD").*

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

(Signature)

Hakim Ouansafi

(Date)

(Print Name)

Executive Director

(Print Title)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
- (2) There is no employee-employer relationship; and
- (3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§ 76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to §76-16, HRS.

(Signature)

(Date)

(Print Name)

(Print Title, if designee of the Director of DHRD)



STATE OF HAWAII

SPECIAL CONDITIONS

CONTRACTOR: _____

PROPERTIES: Asset Management Project 40:
Kuhio Homes and Kuhio Park Terrace Low Rise

Management Unit 42:
Hale Poai, Laiola, Kamalu, Hoolulu, and Halia Hale

Asset Management Project 43:
Ka Hale Kahaluu, Hale Hookipa, Kaimalino, Kealakehe, and Nani Olu

Asset Management Project 44:
Waimaha – Sunflower, Kauiokealani, Maili I, Maili II, and Nanakuli Homes

Asset Management Project 45:
Koolau Village, Hookipa Kahaluu, Kaneohe Apartments, Kauhale Ohana, Waimanalo Homes, and Waimanalo Homes II

Asset Management Project 46:
Noelani I, Noelani II, Hale Hauoli, Ke Kumu Ekolu, and Ke Kumu Elua

Asset Management Project 49:
Kauhale Nani, Wahiawa Terrace, and Kupuna Home O Waialua

Asset Management Project 50:
Palolo Valley Homes

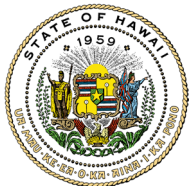
Ke Kumu Ekahi

SERVICES: Property Management, Maintenance and Resident Services
RFP No. PMB-09-2024

1. Insurance Requirements

The CONTRACTOR shall maintain insurance acceptable to the STATE in full force and effect throughout the term of this contract. The policies of insurance maintained by the CONTRACTOR shall provide the following coverage.

<u>Coverage</u>	<u>Limit</u>
General Liability Insurance with Personal Injury Liability	<u>\$1,000,000.00</u> per occurrence for bodily injury and property damage and <u>\$2,000,000.00</u> aggregate. Personal injury limits of <u>\$1,000,000.00</u> per occurrence.



STATE OF HAWAII

SPECIAL CONDITIONS

Automobile Insurance
covering all owned, non-
owned and hired
automobiles.

Bodily injury liability limits of \$1,000,000.00 each
person and \$1,000,000.00 per accident and property
damage liability limits of \$1,000,000.00 per accident
OR combined single limit of \$2,000,000.00.

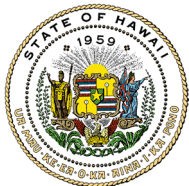
Workers Compensation
as required by applicable
State laws.

Insurance to include Employer's Liability. Both such
coverages shall apply to all employees of the
CONTRACTOR and to all employees of sub-
CONTRACTORS (in case any sub-CONTRACTOR fails
to provide adequate similar protection for all his
employees).

**Professional Liability
Insurance**

Errors and Omissions at a minimum of \$1,000,000.00
per occurrence and \$2,000,000.00 annual aggregate.

- a. Waiver of Subrogation in favor of the State of Hawaii shall also be included for the General Liability, Automobile Liability, and Workers Compensation policies. The CONTRACTOR shall endorse such policies to a waiver of any right to subrogation against the State of Hawaii and their respective employees and agents by each insurer under each required policy described herein. When required by the insurer or should a policy condition not permit the CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, CONTRACTOR shall notify the insurer and request that the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should the CONTRACTOR enter into such agreement on a pre-loss basis.
- b. The State of Hawaii, the Hawaii Public Housing Authority, its elected and appointed officials, officers and employees shall be named as additional insured, except for Professional Liability Insurance and Workers Compensation Insurance, as respects to operations performed for the State of Hawaii under this Contract. Before the effective date of the Contract, the CONTRACTOR agrees to provide the STATE certificate(s) of insurance necessary to satisfy the STATE that the CONTRACTOR is in compliance with insurance provisions of this Contract and will keep such insurance in effect and the certificate(s) on deposit with the STATE during the entire term of this Contract. Upon request by the STATE, the CONTRACTOR shall furnish a copy of the policy or policies.
- c. Failure of the CONTRACTOR to provide and keep in force such insurance shall be regarded as a material default under this Contract. The STATE shall be entitled to exercise any or all of the remedies provided in this Contract and by law for default by the CONTRACTOR.



STATE OF HAWAII

SPECIAL CONDITIONS

- d. The procuring of such required policy or policies of insurance shall not be construed to limit CONTRACTOR's liability or to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, CONTRACTOR shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect with this Contract.
- e. The CONTRACTOR shall immediately provide written notice to the contracting department or HPHA should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.
- f. The Hawaii Public Housing Authority is a self-insured STATE agency. The CONTRACTOR's insurance shall be primary. Any insurance maintained by the State of Hawaii shall apply in excess of, and shall not contribute with, insurance provided by the CONTRACTOR.
- g. To satisfy the minimum coverage limits required by this Contract, the CONTRACTOR may use an umbrella policy in addition to the mandatory insurance policies (i.e. General Liability Insurance, Automobile Insurance, and Workers' Compensation) provided that the HPHA approves, and the umbrella policy follows the underlying coverage forms.

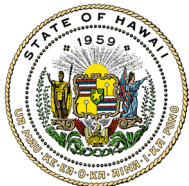
2. Fidelity Bond

The CONTRACTOR shall obtain and maintain, at its sole expense during the term of this Contract, a fidelity bond which includes third party liability in a minimum of \$500,000.00. The fidelity bond shall cover all officers, employees, and agents of the CONTRACTOR and which shall protect the CONTRACTOR against loss by reason of, including without limitation, fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction or misappropriation or any other dishonest criminal or fraudulent act, whatever committed and whether committed directly or with others.

The CONTRACTOR shall furnish at no cost or expense to the HPHA a certificate of such coverage within 30 days from the award of the Contract.

The CONTRACTOR agrees to deposit with the HPHA a valid certificate necessary to satisfy the HPHA that the CONTRACTOR is in compliance with the fidelity bond provisions of the Contract and shall keep such bond in effect and the certificate on deposit with the HPHA during the entire term of the Contract.

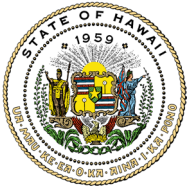
Failure of the CONTRACTOR to provide and keep in force such fidelity bond shall be regarded as material default under the Contract. The HPHA shall be entitled to exercise any or all of the remedies provided in the Contract for such default of the CONTRACTOR.



STATE OF HAWAII

SPECIAL CONDITIONS

3. The CONTRACTOR shall have a permanent office in the State where it conducts business and where it will be accessible in person or via telephone calls during normal State of Hawaii government business hours to address concerns or requests that need immediate attention. A telephone answering service is not acceptable.
4. Section 3 of the U.S. Housing Act of 1968
 - a. The work to be performed under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - b. The parties to this Contract agree to comply with HUD regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
 - c. The Successful Offeror agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Successful Offeror shall not subcontract with any subcontractor where the Successful Offeror has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
 - d. Noncompliance with HUD's regulations in 24 CFR part 75, may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
5. Monitoring and Remedies
 - a. The CONTRACTOR's performance under the Contract will be monitored and evaluated through personal observation, site inspection, and/or other methods as deemed appropriate by the HPHA Contract Administrator or his/her designated representative(s), including without limitation HUD, the HPHA auditors, the State Legislature, and/or other designated representatives.
 - b. The HPHA will periodically submit a report to the CONTRACTOR listing any discrepancies or Contract violation(s) requiring correction. These discrepancies or Contract violation(s) must be corrected or implemented within the period as indicated in the notice issued by the HPHA.



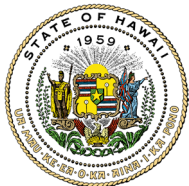
STATE OF HAWAII

SPECIAL CONDITIONS

- c. Failure to comply with the terms of the Contract may be cause for suspension or termination as provided in the General Conditions. The CONTRACTOR may be required to submit additional written reports, including a corrective action plan, in response to monitoring conducted by the HPHA. These additional reports shall not be considered a change to the Scope of Services and shall continue for a duration of time as deemed necessary by the HPHA.
- d. The HPHA reserves the right to make periodic or unscheduled/unannounced inspections of all facilities, records, files, etc. within property to verify that administrative policies and property management and program concerns are properly considered and adequately addressed. The HPHA will make available to the CONTRACTOR all appropriate findings, which affect the management and maintenance of the properties or its budget and advise the CONTRACTOR of any corrective actions required.
- e. The HPHA will conduct a review of financial activity for Ke Kumu Ekahi, MU 42, and each of the AMPs on a monthly basis to assess budget performance and to make budget adjustments. Special budget review sessions with the CONTRACTOR may be conducted by the HPHA as deemed necessary.
- f. In the event the CONTRACTOR is not performing the required services as contracted, the HPHA reserves the right to extend the Contract for intervals of less than 12 months. During this time, the HPHA will monitor the CONTRACTOR's performance and/or improvement and the implementation of its corrective action plan to determine whether the HPHA will continue to contract with the CONTRACTOR.
- g. In the event the CONTRACTOR fails, refuses, or neglects to perform the services in accordance with the requirements of the Request for Proposals No. PMB-09-2024 or the Contract, the STATE reserves the right to purchase in the open market a corresponding quantity of services, and to deduct the cost of such services from any monies due or may thereafter become due the CONTRACTOR. In case money due to the CONTRACTOR is insufficient for the purpose, the CONTRACTOR shall pay the difference upon demand by the STATE. The STATE may also utilize all other remedies provided under the Contract and by law and rules.

6. Damages

- a. The HPHA may withhold the payment of management fees, without being required to pay interest for late payment, until the CONTRACTOR implements and complies with a corrective action plan in response to findings by the HPHA or demonstrates improvement in performance after implementing its corrective action plan.



STATE OF HAWAII

SPECIAL CONDITIONS

- b. The CONTRACTOR shall repair all damages caused by the CONTRACTOR's equipment or employees to existing utilities and structures, including without limitation water lines, electronic conduits, sewer lines, and buildings. If such repairs are not completed within a reasonable time, the HPHA reserves the right to purchase services for the necessary repairs from the open market and to deduct all repair costs from monies due or may thereafter become due to the CONTRACTOR. In the event money due to the CONTRACTOR is insufficient for this purpose, the CONTRACTOR shall pay the difference upon demand by the HPHA.
7. In the event of a conflict between the Federal General Conditions, HUD 5370-C (01/2014) and the State General Conditions, AG-008 103D General Conditions, the more restrictive shall apply.
8. In the event of a conflict between the Special Conditions and the General Conditions, the Special Conditions shall apply.
9. For State LIPH properties, evictions are governed by State Eviction Practice and Procedure as proposed in chapter 17-2038, HAR. The Grievance Procedure and administrative contested case hearings shall not apply.
10. For Federal LIPH properties, evictions are governed by 24 CFR section 966.4. The Grievance Procedure is governed by 24 CFR section 966 and the HPHA administrative rules. Administrative contested case hearings shall apply.
11. Subject to section 356D-6.5, HRS, smoking of tobacco or any other plant material is strictly prohibited on HPHA properties. Furthermore, pursuant to section 328J-1 and 328J-2, HRS, "smoking" includes the use of an electronic smoking device and shall be prohibited in all enclosed or partially enclosed areas. The CONTRACTOR agrees and shall adhere to these no-smoking laws while on HPHA properties. Such violation may be considered a breach of the resulting Contract and result in suspension or termination of the Contract. It shall be considered a violation of State law and subject to prosecution to the fullest extent under the law.
12. At any time during the Contract term, the HPHA reserves the right to decrease the scope of services by removing properties under the Contract as provided in the Termination for Convenience clause of the State General Conditions. In the event of a decrease in scope, the HPHA will provide 90 days advance notice to the CONTRACTOR.
13. This Contract may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument. This Contract may also be executed by electronic signature.



STATE OF HAWAII
SPECIAL CONDITIONS

14. COVID-19 PANDEMIC

Due to the COVID-19 pandemic, it is recommended that the CONTRACTORS' employees adhere to the following protocols while doing work at all HPHA jobsites:

- a. Prolonged contact with tenants should be avoided with social distancing of a minimum of six (6) feet maintained for a period of less than 10 minutes.
- b. Non-essential work that requires close contact should be avoided.
- c. Wash or clean hands before entering or leaving the site with soap and water or hand sanitizer with at least 60% alcohol content.
- d. Wear a face mask covering mouth, nose and chin at all times on HPHA properties. (gaiters, bandanas and vented face masks are not acceptable)
- e. Workers with a fever, cough or other flu-like symptoms are not allowed on the jobsite.
- f. Take temperature before coming to HPHA property. Workers with temperatures higher than 100.4 shall not be allowed on HPHA properties.
- g. Wear ID badges at all times.

15. Interchangeable Terms. The following terms shall be one and same:

- a. "STATE" and "HPHA".
- b. "Contract" and "Agreement".
- c. "CONTRACTOR" and "Successful Offeror".

GENERAL CONDITIONS

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GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
- b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

- (1) The Assignee assumes all of the CONTRACTOR'S obligations;
- (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
- (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

- b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
- b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
- c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
- b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$150,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub[contractor/seller] or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of

recovered materials practicable consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

- 1) Non-construction contracts (*without* maintenance) greater than \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – use Sections I and II.

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

1. Minimum Wages

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

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

2. Withholding of funds

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

3. Records

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

4. Apprentices and Trainees

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

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

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

- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
- (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
- (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
- (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
 - (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be

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

6. Contract Work Hours and Safety Standards Act

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

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

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

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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