

Request for Proposals For

Strategic Planning Facilitation Services For

**HOUSING AUTHORITY OF THE
CITY OF NEW BRAUNFELS**

RFP #: 050121- 0001

Prepared by:

New Braunfels Housing Authority

300 Laurel Lane

New Braunfels, TX 78130

HOUSING AUTHORITY OF THE CITY OF NEW BRAUNFELS TEXAS

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Request for Proposals For Strategic Planning Facilitation Services

HOUSING AUTHORITY OF THE CITY OF NEW BRAUNFELS, TEXAS (830.625.6909)

The Housing Authority of the City of New Braunfels (“New Braunfels Housing Authority” or “NBHA”), Texas hereby invites Proposals from independent contractors to facilitate the strategic planning meeting or meetings for the NBHA Board of Commissioners and/or Executive Staff, as specified in this Request for Proposals (RFP).

As a part of our social mission and federal mandate, NBHA is committed to providing economic, training and educational opportunities to the low income individuals in the communities we serve. All contractors are required to recruit and hire low income individuals for new positions and provide training & educational opportunities to the greatest extent feasible for these individuals.

The Requests for Proposals can be obtained by calling 830.625.6909 or online at <http://www.nbhatx.us> or <http://nahro.economicengine.com>.

Notice: Contact with members of the NBHA Board of Commissioners, or NBHA officers and employees other than the contact person shown below or indicated in this RFP, by any prospective Proposer, after publication of the RFP and prior to the execution of a contract with the successful proposer(s) could result in disqualification of your proposal. In fairness to all prospective proposer(s) during the RFP process, if NBHA contacts anyone representing a potential provider of these services to discuss this RFP other than at the pre-submittal meeting, a written addendum will be issued to address all questions so as to insure no proposer has a competitive advantage over another. This does not preclude meetings required to conduct business not related to the RFP or possible presentations after written qualifications have been received and evaluated.

HOUSING AUTHORITY OF THE
CITY OF NEW BRAUNFELS, TEXAS

By: _____
Henry A. Alvarez III
Executive Director

INTRODUCTION

The New Braunfels Housing Authority is a public housing agency created by resolution of the City of New Braunfels pursuant to the Texas Housing Authorities Law (now Chapter 392 of the Texas Local Government Code) and federal law. NBHA is a unit of government and its functions are essential governmental functions. The property of NBHA is used for essential public and governmental purposes and is exempt from all taxes, including sales tax on all its purchases of supplies and services.

NBHA enters into and executes contracts and other instruments that are necessary and convenient to the exercise of its powers. NBHA maintains contractual arrangements with the U.S. Department of Housing and Urban Development (“HUD”) to manage and operate its low rent public housing program and administers the Section 8 Housing Assistance Payments Programs. NBHA programs are federally funded along with development and modernization grants and rental income.

Its primary activity is the ownership and management of 170 public housing units. It also administers rental assistance for almost 250 privately owned rental units through the Section 8 program. It operates and manages its housing developments to provide decent, safe, sanitary and affordable housing to low-income families, the elderly, and the disabled, and implements various programs designed and funded by HUD.

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RFP INFORMATION AT A GLANCE

<p>NBHA CONTACT PERSON</p>	<p>Mickey Lloyd 300 Laurel Lane New Braunfels, TX 78130 mlloyd@nbhatx.us Phone: 830.625.690 Fax: 830.625.6915</p>
<p>HOW TO OBTAIN THE RFP DOCUMENTS ON THE APPLICABLE INTERNET SITE</p>	<ol style="list-style-type: none"> 1. Access www.nbhatx.us 2. Drag your pointer over “Business with NBHA” and click on “Current Bids”. 3. Follow the listed directions or 4. Access http://nahro.economicengine.com.
<p>HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL</p>	<p>Submit 1 original with pricing in a separate sealed envelope and 3 exact copies less pricing of your proposal to the NBHA following the format as described under Item 5, Proposal Format.</p>
<p>DATE ISSUED</p>	<p>MAY 01, 2021</p>
<p>PRE SUBMITTAL MEETING</p>	<p>NOT APPLICABLE</p>
<p>PRE-SUBMITTAL MEETING</p>	<p>NOT APPLICABLE</p>
<p>PROPOSAL SUBMITAL RETURN & DEADLINE</p>	<p>May 31, 2021 at 5:00pm CDST NBHA Admin Offices 300 Laurel Lane New Braunfels, TX 78130</p>
<p>ANTICIPATED APPROVAL BY THE BOARD</p>	<p>JULY 2021</p>

1.0 GENERAL INFORMATION

- 1.1 Statement of Purpose:** NHBA is seeking proposals from independent contractors with demonstrated professional competence and experience to facilitate the strategic planning meeting or meetings for the NBHA Board of Commissioners and/or Executive Staff as specified herein.
- 1.2** Prospective proposers acknowledge and agree by downloading and receiving the RFP documents and/or by submitting a proposal that the submission of a proposal to NBHA is not a right or agreement to be awarded a contract, but merely is an offer by the prospective proposer to perform the requirements of the RFP documents in the event NBHA decides to consider to award a contract to that proposer.
- 1.3 Definitions:** Throughout this Request for Proposals and all resulting documents, the terms below shall be defined as follows:
- 1.3.1 “Best Value”** means that NBHA will consider, as part of an evaluation of each proposal submittal, factors other than just cost in making the award decision.
- 1.3.2 “Contracting Officer”** when named within an RFP document shall refer to the Executive Director.
- 1.3.3 “Contract”** refers to the fully executed written agreement that ensues from the RFP selection process. Whereas all RFP documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an RFP document; such references are to both the RFP documents and the ensuing contract document.
- 1.3.4 “Contractor”** and the term "successful proposer" may be used interchangeably.
- 1.3.5 “Day(s)”** unless otherwise specified, shall refer to calendar days.
- 1.3.6 “HUD”** is the United States Department of Housing and Urban Development. HUD is the Federal agency from which NBHA receives funding; however, pertaining to this RFP, correspondence, including proposal submittals, received from each proposer must exhaust all provisions contained herein prior to contacting HUD (i.e. in the case of a protest).
- 1.3.7 “Herein”** shall refer to all documents issued pursuant to the noted RFP, including the RFP documents and the attachments.
- 1.3.8 “Executive Director”** is the NBHA Executive Officer.
- 1.3.9 “Offer”** is the proposal submittal that the proposer delivers to NBHA in response to the RFP.
- 1.3.10 “Offeror”** or **“Offerors”** are the proposer or proposers.
- 1.3.11 “Contract Administrator (CA)”** is Mickey Lloyd or representative designated by the Executive Director.
- 1.3.12 “Parties”** When “the parties,” “both parties” or “either party” is stated within the RFP documents or the contract, such references are to NBHA and the successful proposer(s).

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- 1.3.13 **“Proposal,” “Proposal Submittal”** and/or **“Bid”** is the "hard copy" document that the proposer is required to, as detailed within the RFP document, deliver to NBHA.
- 1.3.14 **“Protester”** is any prospective proposer who feels that the prospective proposer has been treated inequitably by NBHA and wishes NBHA to correct the inequitable condition or situation. To be eligible to file a protest with NBHA pertaining to an RFP or contract, the protester must have been involved in the RFP process in some manner as a prospective proposer or proposer.
- 1.3.15 **“Prospective Proposer,” “Proposer”** or **“Bidder”** are terms that have the following meanings: A **Prospective Proposer** is a firm or individual who has been notified of the RFP solicitation and/or who has requested and/or received the RFP documents and is considering responding with a proposal; a **Proposer** or **Bidder** is a firm or individual who has submitted a proposal in response to the RFP. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFP, i.e., certain notices are only delivered to proposers and not to prospective proposers.
- 1.3.16 **“Request For Proposals” (RFP)** is the competitive proposal process allowed by HUD, especially as defined within Chapter 7 of HUD Procurement Handbook 7460.8 REV 2.
- 1.3.17 **“RFP Document(s)”** refers to a document or body of documents, including attachments and information detailing NBHA’s requirements and posted on the nahro.economicengine.com Internet site and www.NBHA.org, that NBHA makes available to all prospective proposers.
- 1.3.18 **“NBHA”** is the Housing Authority of the City of New Braunfels, Texas otherwise commonly known as the New Braunfels Housing Authority. Unless otherwise defined herein or within the ensuing Contract, whenever the term "NBHA" is used without clearly designating a responsible NBHA staff person, the proposer(s) may assume that responsibility for that item rests with the NBHA CA.
- 1.4 **Non-Mandatory Pre-Proposal Conference:** Not Applicable.
- 1.5 **Proposal Submission:** Refer to the **RFP Information At A Glance** page for submission date, time and location. Late Proposals will not be accepted.
- 1.6 **Proposer’s Responsibilities-Contact with NBHA:** It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP only to the contact person listed in the **RFP Information At A Glance** page. Proposers must not make inquiry or communicate with any other NBHA staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for NBHA to not consider a proposal submittal received from any proposer who has not followed this directive. During the RFP solicitation process, the NBHA will not conduct any ex parte conversations which may give one prospective proposer an advantage over other prospective proposers.
- 1.7 **Type of Contract resulting from RFP:** A firm Fixed-Fee contract inclusive of all associated costs for the strategic planning facilitation and recommendations as specified herein. The maximum length of the contract will

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be one year with the option to extend at the sole discretion of NBHA, however, any Contractor selected is advised the facilitation must be completed within 120 days of a notice to proceed.

2.0 NBHA'S RESERVATION OF RIGHTS

- 2.1 NBHA reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by NBHA to be in its best interests.
- 2.2 NBHA reserves the right not to award a contract pursuant to this RFP.
- 2.3 NBHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience, upon 14 days written notice to the successful proposer(s).
- 2.4 NBHA reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
- 2.5 NBHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals without the written consent from the CA.
- 2.6 NBHA reserves the right to negotiate the fees proposed by all proposers. If such negotiations are not, in the opinion of the CA, successfully concluded within a reasonable timeframe as determined by NBHA. NBHA shall retain the right to end such negotiations.
- 2.7 NBHA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- 2.8 NBHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- 2.9 NBHA reserves the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. Each prospective proposer further agrees that the prospective proposer will inform the CA in writing within five (5) days of the discovery of any item that is issued thereafter by NBHA that the prospective proposer feels needs to be addressed. Failure to abide by this timeframe shall relieve NBHA, but not the prospective proposer, of any responsibility pertaining to such issue.
- 2.10 NBHA reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on NBHA's website www.nbhatx.us and nahro.economicengine.com. Such changes that are issued before the proposal submission deadline shall be binding upon all prospective proposers.
- 2.11 In the case of rejection of all proposals, NBHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of NBHA, the best interest of NBHA will be promoted.

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- 2.12** NBHA reserves the right to, without any liability; cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- 2.13** NBHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to NBHA, if:
- 2.13.1** Funding is not available;
- 2.13.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or
- 2.13.3** NBHA's requirements in good faith change after award of the contract.
- 2.14** NBHA reserves the right to make an award to more than one proposer based on ratings and to award with or without negotiations or a "Best and Final Offer" (BAFO).
- 2.15** NBHA reserves the right to require additional information from all proposers to determine level of responsibility. Such information shall be submitted in the form required by NBHA within two (2) days of written request.
- 2.16** NBHA reserves the right to amend the contract any time prior to contract execution.
- 2.17** NBHA reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this RFP and any resulting contract.
- 2.18** NBHA reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the proposer regardless of their inclusion in the reference section of the proposal submittal.
- 2.19** In the event any resulting contract is breached, prematurely terminated or cancelled due to non-performance and/or withdrawal by the Contractor, NBHA reserves the right to seek monetary restitution (to include but not be limited to withholding of compensation or other monies owed) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (i.e. any difference between existing Contracted rate and new Contract rate) beginning the date of Contractor's termination, breach and/or cancellation through the contract expiration date.
- 2.20** NBHA reserves the right to require the Contractor to replace any employee, subcontractor, or other individuals and/or entities found to be unacceptable in performing work under any contract resulting from this RFP. Replacement shall occur within 2 days of notification by NBHA.
- 2.21** NBHA must maintain appropriate records (including payrolls, work orders, job descriptions, training program materials and apprentice/trainee registrations and any other data related to the employment and utilization of maintenance laborers and mechanics) which must be preserved for no less than three years or until resolution of any dispute, whichever is later. Employers under contract to NBHA to provide maintenance work must submit to NBHA their original employment records as described above or agree to retain the original employment records for three years or until resolution of any dispute subject to this solicitation.

3.0 SCOPE OF PROPOSAL/General Conditions: NBHA is seeking an experienced professional or team of professionals to facilitate the development of a 5-year strategic plan for the agency. Contractor shall conduct the facilitation and render the results in a formal report and present the same to the Executive staff and Board of Commissioners at the central headquarters located at 300 Laurel Lane, New Braunfels, TX 78130 as specified herein. Specific items are detailed in the specifications contained herein.

3.1 REGULATORY: Contractor shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services under this RFP.

3.2 PRODUCT QUALITY STANDARD: Contractor shall use products, services, and methods that meet or exceed the specifications included herein and, in all cases, that meet or exceed the requirements of HUD, NBHA and industry (ex. INIFAC, IAF).

3.3 INSPECTIONS: All deliverables shall be subject to inspection and approval by a NBHA representative. The final acceptance of inspections shall be by the NBHA Executive Director.

3.4 LICENSING: Contractor, if required, shall be licensed by the jurisdiction in which the service is to be performed and the license shall be current and in good standing. Copies of the licenses shall be placed under Tab 9.

3.5 GENERAL CONDITIONS:

3.5.1 Objective: The New Braunfels Housing Authority (NBHA) is seeking an experienced professional or team of professionals to facilitate the development of a 5-year strategic plan for the agency.

3.5.2 Deliverables: The strategic plan should include the following key deliverables:

3.5.2.1 Revised Mission Statement

3.5.2.2 Future-oriented Vision Statement

3.5.2.3 The 3-5 most important strategic goals for the agency

3.5.2.4 The 3-5 specific objectives for each strategic goal

3.5.3 Required Experience: Respondents should demonstrate extensive experience producing strategic plans for large, complex organizations, facilitating both small and large group activities, and collaborating with a diverse range of community stakeholders. Respondents should have experience creating strategic plans using an asset-based strategic planning approach.

3.5.4 Community Engagement: Effective community engagement is of particular importance, especially the use of innovative techniques to capture and communicate stakeholder narratives. Proposals that integrate NBHA residents and participants in the production of the plan, through capacity-building activities, are highly encouraged.

3.6 SPECIFICATIONS: The Contractor shall conduct and facilitate a comprehensive strategic planning session as described below:

3.6.1 Schedule: NBHA is seeking facilitation services in two stages. Respondents shall submit proposals for both of the following stages. The contracts for each stage may be awarded separately but concurrently to maintain a tight schedule.

3.6.2 Stage 1 (Board of Commissioners)

3.6.2.1 Advance planning: to include email correspondence, 3-5 conference calls, and at least two face-to-face meetings.

3.6.2.2 Board Session

3.6.2.2.1 Two or three-day work session with NBHA's five-member Board of Commissioners and select senior staff members.

3.6.2.2.2 Key deliverables are draft Mission Statement, draft Vision Statement, and draft Strategic Goals.

3.6.2.2.3 Optional deliverables include a statement of values or principles.

3.6.3 Stage 2 (Community and Board)

3.6.3.1 Advance planning Email correspondence, 3-5 conference calls, and at least two face-to-face meetings.

3.6.3.2 Asset Inventory

3.6.3.2.1 Data collection and analysis.

3.6.3.2.2 Internal Interviews (including Board members and senior staff).

3.6.3.2.3 Community meetings / Focus groups / Interviews with stakeholders (partners, vendors, community leaders, clients, employees, residents, participants, etc.).

3.6.3.2.4 Key deliverable is a report summarizing asset inventory and initial findings of interviews and meetings.

3.6.3.3 Public community meetings, follow-up interviews, surveys

3.6.3.3.1 Include meeting venue arrangements and logistics.

3.6.3.3.2 Include advertising, publicizing and outreach efforts to encourage attendance.

3.6.3.3.3 Can be a phased and iterative process.

3.6.3.4 Follow-up work session with Board

3.6.3.4.1 Present findings and recommendations.

3.6.3.4.2 Solicit Board feedback and guidance for final report.

3.6.3.5 Presentation to Board: Final written Strategic Plan (in print and editable digital formats), to include:

3.6.3.5.1 An executive summary suitable for public distribution.

3.6.3.5.2 Summary of planning activities to date (methodology).

3.6.3.5.3 List of stakeholders engaged.

3.6.3.5.4 Preliminary reports prepared during this process.

3.6.3.5.5 The four key strategic plan deliverables as described above.

3.6.3.5.6 Any other pertinent elements that explain, expand, or help to implement the strategic planning process.

3.6.3.5.7 Discussion of themes and issues related to Re-Branding of the organization.

3.7 HUD SECTION 3 PROGRAM: Contractor shall utilize Section 3 residents as defined in Attachment D to perform the requirements under this Proposal to the greatest extent feasible and shall document such efforts quarterly. There is a 30% goal for hiring Section 3 residents on any contracts resulting from this RFP. Contractor will be evaluated on Contractor's performance at achieving this goal and such evaluation shall be a factor in future awards. **Contractor must submit a detailed Section 3 utilization plan with Contractor's proposal and the number of expected new hires Contractor expects as a result of an award. Failure to do so may result in disqualification of the Proposal.**

3.8 RESPONSIBILITY FOR SUBCONTRACTORS: All requirements for the "Prime" contractor shall also apply to any and all subcontractors. It is the Prime Contractors' responsibility to insure the compliance by the subcontractors. At all times the Prime Contractor remains liable to NBHA for the performance and compliance of the subcontractors.

3.9 TIME FOR COMPLETION: The Contractor shall immediately mobilize and commence work at the time stipulated in the notification to the Contractor and shall be fully completed within the specified time. The time for completion is estimated at not more than **120** days.

3.10 OFFICE SPACE & EQUIPMENT: The vendor will be provided a work desk (area), telephone, access to the network and/or the internet may be provided if Contractor feels it necessary to complete the service. Contractor shall provide their own laptop and/or PC, projector, and other materials necessary to complete the work.

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3.11 CONFIDENTIALITY: Contractor/s shall be required to sign a non-disclosure and confidentiality agreement as they may be exposed to information during the work that is confidential or proprietary in nature.

3.12 COMMUNICATIONS:

3.12.1 Form: All claims, notices, demands, requests, instructions, approvals and proposals must be submitted in writing.

3.12.2 Notice to Contractor: Any Notices or Demands upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Contract or at such other office as the Contractor may from time to time designate in writing to NBHA or deposited in the United States mail in a sealed, postage-prepaid envelope or if delivered with charges prepaid to any telegraph company for transmission and addressed to the office of the Contractor indicated on the signature page of the contract or such other address as may be subsequently specified in writing to NBHA.

3.12.3 Notice to NBHA: All notification papers required to be delivered to NBHA or its designated representative shall, unless otherwise specified in writing to the Contractor, be delivered to NBHA at 300 Laurel Lane, New Braunfels, TX 78130; and any notice to or demand upon NBHA shall be sufficiently given if so delivered or deposited in the United States mail in a sealed, postage-prepaid envelope or delivered with charges prepaid to any company for transmission to NBHA at the above address or to such other address as NBHA may subsequently specify in writing to the Contractor for such purpose.

3.12.4 Receipt: Any such notice shall be deemed to have been given as of the time of actual delivery; or in the case of mailing, when the same should have been received in due course after the date of surrender to the Post Office; or in the case of other means of delivery, at the time of actual receipt, as the case may be.

4.0 CONDITIONS TO PROPOSE:

4.1 Pre-Qualification of Proposers: Prospective proposers will not be required to pre-qualify in order to submit a proposal. However, all proposers will be required to submit adequate information showing that the proposer is qualified to perform the required work (i.e. Profile of Firm Form (Attachment C)). Failure by the prospective proposer to provide the requested information may, at NBHA's discretion, eliminate that proposer from consideration, provided that all proposers were required to submit the same information.

4.2 RFP Forms, Documents, Specifications and Drawings:

4.2.1 Prior to submitting a proposal in response to the RFP, it shall be each prospective proposer's responsibility to examine carefully and, as may be required, properly complete all documents issued pursuant to this RFP.

4.2.2 Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time. It is the responsibility of the proposer to field verify all existing conditions and potential impediments.

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4.2.3 “Or Equal” references to catalogs, manufacturer’s references, brand names, model numbers, etc. are intended to indicate type, quality, and performance desired only unless specifically specified otherwise. Proposals on brands of like nature, quality and performance will be considered. If proposing other than the referenced item(s), the proposal submittal shall show the manufacturer, brand or trade name, model, description, illustration, and specifications of the product offered and must include the supporting data in the proposal submittal. Failure to identify the proposed alternate products or provide supporting data shall require Contractor to furnish the brand names, numbers, models, etc. specified.

4.3 Submissions and Receipt by NBHA:

4.3.1 Time for Receiving Proposals: Proposals received prior to the proposal submittal deadline shall be securely kept, unopened, by NBHA. The CA, whose duty it is to open such proposals, will decide when the specified time has arrived. No proposal received after the designated deadline shall be considered. It is the proposer’s sole responsibility to deliver the proposer’s proposal by the deadline, regardless of the means of delivery.

4.3.1.1 Proposers are cautioned that any proposal submittal that is time-stamped as being received by NBHA after the exact time set as the deadline for the receiving of proposals shall not be considered. Any proposals not submitted in a timely manner that are inadvertently opened shall be ruled invalid. No responsibility will attach to NBHA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and/or identified.

4.3.1.2 One (1) original signature copy (marked “ORIGINAL”) with a cover and extending tabs, and three (3) exact copies (marked “COPY”), less cost information of the proposal submittal, shall be placed unfolded in a sealed package with the proposer’s name and return address and addressed as follows:

RFP # {Insert Number}
{Insert Exact Title of RFP}
{Insert Month, day, year, Time of Proposal Opening}
New Braunfels Housing Authority
Attn: Mickey Lloyd
818 S. Flores
New Braunfels, Tx 78130

4.3.3 Withdrawal of Proposals: Proposals may be withdrawn as detailed within the attached HUD Form(s). Negligence on the part of the proposer in preparing the proposer’s proposal confers no right of withdrawal or modification of the proposer’s proposal after such proposal has been received and opened. A request for withdrawal of a proposal due to a purported error need not be considered by NBHA unless filed in writing by the proposer within 48 hours after the proposal deadline. Any such request shall contain a full explanation of any purported error and shall, if requested by NBHA, be supported by the original calculations on which the proposal was computed, together with a certification and notarization thereon that such computation is the original and was prepared by the proposer or the proposer’s agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as NBHA retains the right to accept or reject any proposed withdrawal for a mistake.

4.4 Exceptions to Specifications:

- 4.4.1** A prospective proposer may take exception to any of the proposal documents or any part of the information contained therein by submitting in writing to the CA, at least seven (7) days prior to the proposal submission deadline, a complete and specific explanation of the exception. Proposed alternate documents or information must also be included. NBHA reserves the right to agree with the prospective proposer and issue a revision to the applicable RFP requirements, or may reject the prospective proposer's request.
- 4.4.2** When taking exception, prospective proposers must propose services that meet the requirements of the RFP documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-proposal conference (if scheduled). Any verbal instructions provided by any NBHA staff shall only become official and binding when issued in a written addendum pursuant to receipt of a written question by the CA.

5.0 FORM OF PROPOSAL: The proposal shall be submitted in the following manner. Failure to submit the proposal in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that proposal, and may, at the discretion of the CA, eliminate that proposer from consideration for award.

5.1 Required Forms: All required forms furnished by NBHA as a part of the RFP document issued shall, as instructed, be fully completed and submitted by the proposer. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the proposer must "edit" the form back to its original form (for example, signature lines must appear on the page which the line was originally intended).

5.2 Tabbed Proposal Submittal: NBHA intends to retain the successful Proposer pursuant to a "Best Value" basis, not a "Low Bid" basis. Therefore, so that NBHA can properly evaluate the proposals received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted below. Each category must be separated by numbered index dividers and the number on the index divider must extend so that each tab can be located without opening the proposal and labeled with the corresponding tab reference noted below. None of the proposed services may conflict with any requirement NBHA has published herein or has issued by addendum.

5.2.1 Tab 1, Form of Proposal: This Form is attached hereto as Attachment A to this RFP document. This one-page Form must be fully completed, and submitted under this tab as a part of the proposal submittal. The proposed fee section of this form will be intentionally left blank in the copies of the proposal submittals. The Fee Proposal Sheet and Cost Analysis (Attachment A) must be completed separately and placed in a sealed envelope. **DO NOT INCLUDE THE PROPOSED FEE SHEET OR COST ANALYSIS IN THE PROPOSAL COPIES. THEY MUST BE SUBMITTED SEPARATELY IN A SEALED ENVELOPE AT THE TIME OF PROPOSAL SUBMITTAL AND ATTACHED ONLY TO THE "ORIGINAL".**

5.2.2 Tab 2, Form HUD Forms and Conflict of Interest Questionnaire: These Forms are attached hereto as Attachment B to this RFP document and must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.

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5.2.3 Tab 3, Profile of Firm Form: The Profile of Firm Form is attached hereto as Attachment C to this RFP document. This two-page Form must be fully completed, executed and submitted under this tab as a part of the proposal submittal by the Proposer. Each subcontractor must also complete this form and it shall be placed under Tab 6.

5.2.4 Tab 4, Experience, Performance, Managerial Capacity & Financial Viability: The Proposer must submit under this tab a concise description of its experience, performance, managerial capacity and financial viability to deliver the proposed services, to include:

5.2.4.1 Contractor's staff capabilities specific to this service including an organizational chart, the facilitator's and/or team's resumes and the resumes of key personnel that will conduct the service. Evidence of commitment to excellence in workmanship and professionalism as evidenced by awards and certifications. Include a description of relevant facilitation experience within the last three years including a list of relevant stakeholders that were engaged and how they were engaged.

5.2.4.2 Financial viability and ability to provide the requested services. This may be evidenced by copies of the most recent financial statements or balance sheets that clearly show assets, liabilities, income, credit lines, debt and/or if available the most recent independent audit.

5.2.4.3 Project plan and timeline for each of the two stages, oversight of all services and the coordination of owner's personnel, subcontractors and suppliers to comply with the timeframe, and confidentiality issues. The number and formats of reports including drafts and finals. The number and formats of presentations.

5.2.4.4 The Contractor's capabilities and experience in the facilitation of projects of this or greater scope, cost and timeline, complexity of the organization. Outline of capability to deliver the required services. Include process(es), functional and technical expertise. The Contractor must demonstrate its knowledge and expertise of the facilitation process. Provide a sample report or link to of the final deliverables associated with these projects. The projects must have been of a similar magnitude and complexity.

5.2.5 Tab 5, Client Information: The proposer shall submit three former or current clients, preferably other than NBHA, for whom the proposer has performed similar or like services to those being proposed herein. The list shall, at a minimum, include for each reference:

5.2.5.1 The client's name;

5.2.5.2 The client's current telephone number and address;

5.2.5.3 Description of services provided to the client;

5.2.5.4 Date and location of services; include completion time frame and days over/under schedule;

5.2.5.5 Budget, number and cost of Scope Changes requested (designate who initiated).

5.2.6 Tab 6, Joint Venture/Subcontractors: The proposer shall identify hereunder if this proposal is a joint venture or partnership with another entity. Please remember that all information required from the proposer under the tabs must also be included for any joint venture or partner. One entity must be designated as the primary contact for the joint venture or partnership in the proposal. Proposers must also provide NBHA with the name, contact information to include address, phone number, email address, core area of business, and years of expertise for each subcontractor and supplier intended to be utilized by the Proposer to perform the services requested in this RFP. Proposer must realize that the actual usage of the subcontractor will be contingent upon NBHA's prior written approval, and Proposer remains responsible to NBHA for any and all services and goods provided pursuant to this RFP and any resulting contract. If no joint venture exists or subcontractors will not be utilized, please provide this statement, "NO JOINT VENTURE/ NO SUBCONTRACTORS", in this section.

5.2.7 Tab 7, Section 3 Business Preference: Any Proposer claiming a Section 3 Business Preference, shall under this tab include the fully completed and executed Section 3 Business Preference Certification Forms attached hereto as Attachment D and provide any documentation required by those forms. Please include supporting documentation with the Proposal. Supporting documentation includes but is not limited to income tax returns for low-income employees for which Proposer is seeking the preference, verification of total number of full-time employees, names and addresses of low-income residents who are Proposers employees. Note: If you qualify as a Section 3 Business Concern, your Proposal will receive a preference over other Proposals as specified in Attachment D.

5.2.8 Tab 8, Section 3 Utilization Plan: Proposers are required to submit a utilization plan outlining their efforts to employ qualified Section 3 businesses or persons regardless of whether or not they are seeking a preference. The plan shall detail the Proposer's good faith effort to hire, train or provide educational opportunities to Section 3 residents and the potential number of new hires if awarded a contract. **FAILURE TO PROVIDE A SECTION 3 PLAN MAY CAUSE THE SUBMITTAL TO BE DISQUALIFIED AS NON-RESPONSIVE.**

5.2.9 Tab 9, Small/Minority/Disadvantaged/Veteran Business Enterprise Utilization Plan: The Proposer is required to include hereunder a plan identifying the Proposer's good faith efforts to assist NBHA in its responsibility to foster the development of small and historically underutilized business enterprises. All subcontracting opportunities shall be outlined herein and subcontractors listed on the form provided in Attachment C. **FAILURE TO PROVIDE A S/W/MBE PLAN MAY CAUSE THE SUBMITTAL TO BE DISQUALIFIED AS NON-RESPONSIVE.**

5.2.10 Tab 10, Company Biography & Other Information: The Proposer shall complete the company profile page that is attached to provide a brief company history including: date founded, number of employees, company headquarters location and operating locations, and past projects and accomplishments. Proposer must also include any applicable business licenses or permits required under this tab. The proposer may also provide hereunder any other general information that the proposer believes is appropriate to assist NBHA in its evaluation.

5.3 Proposed Costs:

5.3.1 Fee Costs: Each proposer must enter the proposed cost to NBHA for the listed project. Your proposed fee is inclusive of all necessary costs to provide the proposed services, including, but not limited to:

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employee costs and benefits; travel & per diem; clerical support; overhead; profit; supplies; materials; licensing; insurance; etc. Please note that the fee proposal for this service is inclusive of all elements required to deliver and present the strategic plan as specified herein and the fee proposed shall be fully “burdened” with profit, overhead and “all” other associated costs to deliver a complete project.

5.3.1. Additional Related Work that May Be Required: Please note NBHA may retain the Contractor, if it is deemed by NBHA to be in its best interest, to perform additional services at fees proposed by the Contractor in their unit price response.

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

6.0 PROPOSAL EVALUATION:

6.1 Proposal Opening Results: It is understood by all proposers/prospective proposers that the proposals are publicly opened and the results will be a matter of public record. When NBHA has concluded all evaluations, has chosen a final top-rated proposer, has completed the award and is ready to issue such results, NBHA shall notify the successful proposer. All proposal documents submitted by the proposers are generally a matter of public record unless information is deemed to be proprietary.

6.2 Evaluation: Each proposal submittal will be evaluated based upon the following information and criteria:

6.2.1 Initial Evaluation-Responsiveness: Each proposal received will first be evaluated for responsiveness (i.e., meeting the minimum requirements as stated in the RFP).

6.2.2 Evaluation-Responsibility: NBHA shall select a minimum of a three-person panel, using the criteria established below, to evaluate each of the proposals submitted in response to this RFP to determine the proposer’s level of responsibility. NBHA will consider capabilities or advantages that are clearly described in the proposal that may be confirmed by oral presentations, site visits, demonstrations, and references contacted by NBHA. All proposals would be evaluated as to their overall value to NBHA.

6.2.3 Restrictions: All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer will be excluded from participation on NBHA’s evaluation panel. Similarly, all persons having ownership interest in and/or contract with a proposer will be excluded from participation on NBHA’s evaluation panel.

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6.2.4 Evaluation Criteria: The evaluation panel will use the following rating criteria to evaluate each of the required elements specified in the proposal. Then each element will be scored based on the weight assigned to that element and then all element scores will be added to arrive at the sum total score:

- 5 - Excellent
- 4 - Above Average
- 3 - Average
- 2 - Below Average
- 1 - Poor

0 - Non-Responsive

NO.	Weight	CRITERION DESCRIPTION
1	20%	Relevant experience & Performance: Contractor's staff capabilities specific to this service including an organizational chart, the facilitator's and/or team's resumes and the resumes of key personnel that will conduct the service. Evidence of commitment to excellence in workmanship and professionalism as evidenced by awards and certifications. Include a description of relevant facilitation experience within the last three years including a list of relevant stakeholders that were engaged and how they were engaged.
2	5%	Financial: Financial viability and ability to provide the requested services. This may be evidenced by copies of the most recent financial statements or balance sheets that clearly show assets, liabilities, income, credit lines, debt and/or if available the most recent independent audit.
3	25%	Plan & Project Management: Project plan and timeline for each of the two stages, oversight of all services and the coordination of owner's personnel, subcontractors and suppliers to comply with the timeframe, and confidentiality issues. The number and formats of reports including drafts and finals. The number and formats of presentations.
4	10%	Capability: Contractor's capabilities and experience in the facilitation of projects of this or greater scope, cost and timeline, complexity of the organization. Outline of capability to deliver the required services. Include process(es), functional and technical expertise. The Contractor must demonstrate its knowledge and expertise of the facilitation process. Provide a sample report or link to of the final deliverables associated with these projects. The projects must have been of a similar magnitude and complexity.
4	20%	Price proposal: Price of the proposed services.
5	15%	Strength of the Section 3 plan
6	5%	Strength of the S/W/MBE plan

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MAX. POINTS	HUD SECTION 3 Preference Points	
1	5	Section 3 Preference: A contractor may qualify for Section 3 status for up to an additional 5 points.
a	5	Priority I: As detailed in Attachment D
b	4	Priority II: As detailed in Attachment D
c	3	Priority III: As detailed in Attachment D
d	2	Priority IV: As detailed in Attachment D

6.2.5 Competitive Range: Once a competitive range is established from the proposals submitted, NBHA reserves the right to require Proposers within the competitive range to make a presentation to the evaluation committee. Presentations, if requested, shall be a factor in the award recommendation.

6.2.6 Burden of Proof: If requested by NBHA, it shall be the responsibility of the proposer(s) to furnish NBHA with sufficient data or physical samples, within a specified time, so that NBHA may determine if the goods or services offered conform to the specifications.

6.3 Mistake in Proposal Submitted:

6.3.1 Unless otherwise prohibited within the RFP documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at NBHA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to the CA, for the CA's review. This mistake must be corrected before the issuance of any contract documents. Such correction shall not operate to give any proposer an advantage over another.

6.4 Irregular Proposal Submittal: A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at NBHA's discretion, be reason for rejection:

6.4.1 If the forms furnished by NBHA are not used or are altered or if the proposed costs are not submitted as required and where provided.

6.4.2 If all requested completed attachments do not accompany the proposal submittal.

6.4.3 If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the proposer submitting the same a competitive advantage over other proposers.

6.4.4 If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

6.5 Disqualification of Proposers: Any one or more of the following shall be considered as sufficient for the disqualification of a prospective proposer and the rejection of the prospective proposer's proposal:

6.5.1 Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as Proposers or proposers for any future work with NBHA until such participant shall have

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been reinstated as a qualified bidder or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.

- 6.5.2** More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s).
- 6.5.3** Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
- 6.5.4** Unsatisfactory performance record as shown by past work for NBHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.
- 6.5.5** Incomplete work, which in the judgment of NBHA, might hinder or prevent prompt completion of additional work, if awarded.
- 6.5.6** Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
- 6.5.7** Failure to comply with any qualification requirements of NBHA.
- 6.5.8** Failure to list, if required, all subcontractors (if subcontractors are allowed by NBHA) who will be employed by the successful proposer(s) to complete the work of the proposed contract.
- 6.5.9** As required by the RFP documents, failure of the successful proposer to be properly licensed by the City, County and/or the State of Texas and/or to be insured by a commercial general liability policy and/or worker's compensation policy and/or business automobile liability policy, if applicable. If a proposer receives an award unless otherwise waived in the Contract, the Contractor will be required to provide an original Certificate of Insurance confirming the following minimum requirements to NBHA within 10 days of contract signature:

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Professional Liability	Required Limits
NBHA and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to NBHA such as appraisers, inspectors, attorneys, engineers or consultants.	\$1,000,000
Business Automobile Liability	Required Limits
NBHA and its affiliates must be named as an additional insured and as the certificate holder. Must include both owned and unowned vehicles.	\$500,000 combined single limit, per occurrence
Workers Compensation and Employer's Liability	Required Limits
Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000 A waiver of Subrogation in favor of NBHA must be included in the Workers' Compensation policy. NBHA and its affiliates must be named as a Certificate Holder.	Statutory \$500,000
Commercial General Liability	Required Limits
This is required for any vendor who will be doing hands on work at NBHA properties. NBHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.	\$1,000,000 per accident \$2,000,000 aggregate

6.5.10 Any reason to be determined in good faith, to be in the best interests of NBHA.

6.6 Award of Proposal(s): The award shall be to the top-rated responsive and responsible proposer(s) determined by the evaluation process, presentations (if requested), negotiations, Best & Final Offers (BAFO), NBHA's business needs, Proposer's ability to deliver within budget the specified items in a timely manner. Proposers shall be recommended for award if in NBHA's opinion, it is in the best interest to accept the proposal after preferences for Section 3 business concerns are considered. NBHA reserves the right to award multiple contracts and will not consider "All or None" proposals or bids.

7.0 Right to Protest:

7.1 Rights: Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures. Disagreements with the evaluators' judgments as to the number of points scored are not reasons for an appeal. An alleged aggrieved protester claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protester.

7.1.1 An alleged aggrieved "protester" is a prospective proposer or proposer who feels that protester has been treated inequitably by NBHA and wishes NBHA to correct the alleged inequitable condition or situation. To be eligible to file a protest with NBHA pertaining to an RFP or contract, the alleged aggrieved protester

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must have been involved in the RFP process in some manner as a prospective proposer (i.e. recipient of the RFP documents) when the alleged situation occurred. NBHA has no obligation to consider a protest filed by any party that does not meet these criteria.

7.1.2 Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of NBHA's procurement policy. Any protest against a NBHA solicitation must be received before the due date for receipt of Proposals or proposals and any protest against the award of a contract must be received within ten calendar days after contract award or the protest will not be considered.

All protests must be in writing and submitted to the Director of Procurement for a written decision. The Director of Procurement shall make a recommendation to the Contracting Officer who shall issue a written decision and findings to the Contractor within 30 days from receipt of the written protest. This decision is then appealable to the Board of Commissioners within 30 days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the example below:

APPEAL OF RFP NO. (insert exact number of RFP here) New Braunfels Housing Authority
Attn: Mickey Lloyd, Director of Procurement
300 Laurel Lane,
New Braunfels, TX 78130

8.0 Disputes under the contract:

8.1 Procedures: In addition to the procedures detailed within Form HUD-5370-C1 (10/2006), *General Conditions for Non-Construction Contracts, Public Housing Programs*, in the event that any matter, claim, or dispute arises between the parties, whether or not related to this RFP or any resulting contract, both parties shall be subject to nonbinding mediation if agreed to by both parties within thirty days of either party making a request in writing. The parties further agree that if the matter, claim or dispute is not settled during mediation, it shall thereafter be submitted to binding arbitration. The parties shall make a good-faith attempt to mutually agree upon an arbitrator. If the parties cannot mutually agree upon an arbitrator after reasonable efforts have been exerted, then the matter, claim or dispute shall be submitted to the American Arbitration Association for final and binding arbitration. Unless extended by the arbitrator for good cause shown, the final arbitration hearing shall begin no later than two months after selection of the arbitrator.

9.0 Additional Considerations:

9.1 Escalation: This is a Firm Fixed Price Contract with no escalation provisions.

9.2 Required Permits and Licenses: Unless otherwise stated in the RFP documents, all Federal, State or local permits and licenses which may be required to provide the services ensuing from any award of this RFP, whether or not they are known to either the NBHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and all offers submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits or licenses.

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- 9.3 Taxes:** All persons doing business with NBHA are hereby made aware that NBHA is exempt from paying Texas State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 9.4 Government Standards:** It is the responsibility of the prospective proposer to ensure that all items and services proposed conform to all local, state and federal law concerning safety (OSHA) and environmental control (EPA and Comal County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful proposer shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful proposer for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 9.5 Free on Board (FOB) and Delivery:** All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the locations specified within the RFP documents or within the Contract. All costs in the proposal submittal shall be quoted as FOB Destination, Freight Prepaid and allowed unless otherwise stated in this RFP. The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful proposer. Upon default, the successful proposer agrees that NBHA may, at its option, rescind the finalized contract under the termination clause herein and seek compensatory damages as provided by law.
- 9.6 Work on NBHA Property:** If the successful proposer's work under the contract involves operations by the successful proposer on NBHA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, shall indemnify NBHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subcontractors.
- 9.7 Estimated Quantities:** Unless otherwise indicated, the quantities reflected within the RFP documents, to the best of NBHA's knowledge, reflect projected consumption data. These quantities are not meant to infer or imply actual consumption figures or quantities that will be purchased by NBHA under the finalized contract; but, pursuant to all RFP documents, these quantities will be used only as calculation figures to determine the successful proposer. NBHA makes no guarantee as to the actual quantity that will be purchased under the Contract resulting from this RFP.
- 9.8 Warranty:**
- 9.8.1** The services provided under the contract shall conform to all information contained within the RFP documents as well as applicable Industry Published Technical Specifications, and if one of the above-mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.
- 9.8.2** The liability of the successful proposer to NBHA arising out of the furnishing of services/goods under the terms of the contract shall not exceed the correcting of the defect(s) in the services/goods provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose. However, this limitation does not preclude NBHA from seeking indirect, consequential, incidental exemplary, and liquidated damages.

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- 9.9 Official, Agent and Employees of the NBHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the NBHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 9.10 Subcontractors:** Unless otherwise stated within the RFP documents, the successful proposer may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the CA. Also, any substitution of subcontractors must be approved in writing by NBHA prior to their engagement.
- 9.11 Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 9.12 Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the successful proposer is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 9.13 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 9.14 Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 9.15 Time of the Essence:** Time is of the essence as to each provision in which a timeframe for performance is provided in this RFP. Failure to meet these timeframes may be considered a material breach, and NBHA may pursue compensatory and/or liquidated damages under the contract.
- 9.16 Limitation of Liability:** In no event shall NBHA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.
- 9.17 Indemnity:** The Contractor shall indemnify and hold harmless NBHA and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for, or on account of any personal injury or property damage received or sustained by any persons or property growing out of, occurring, or attributable to any work performed under or related to this Agreement, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor, **AND REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF NBHA. CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT,**

SURVIVES TERMINATION OF THIS AGREEMENT, AND APPLIES TO CLAIMS AND LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF NBHA.

9.18 Public/Contracting Statutes. NBHA is a governmental entity as that term is defined in the procurement statutes. NBHA and this RFP and all resulting contracts are subject to federal, state and local laws, rules, regulations and policies relating to procurement.

9.19 Termination: Any contract resulting from this RFP may be terminated under the following conditions:

9.19.1 By mutual consent of both parties, and

9.19.2 Termination for Cause: As detailed within Form HUD-5370-C (11/2006), *General Conditions for Construction Contracts, Public Housing Programs*, attached hereto:

9.19.2.1 NBHA may terminate any and all contracts for default at any time in whole or in part, if the contractor fails to perform any of the provisions of any contract, so fails to pursue the work as to endanger performance in accordance with the terms of the RFP or any resulting contracts, and after receipt of written notice from NBHA, fails to correct such failures within seven (7) days or such other period as NBHA may authorize or require.

9.19.2.1.1 Upon receipt of a notice of termination issued from NBHA, the Contractor shall immediately cease all activities under any contract resulting from this RFP, unless expressly directed otherwise by NBHA in the notice of termination.

9.19.2.1.2 NBHA may terminate any contract resulting from this RFP in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.

9.19.3 Termination for Convenience: In the sole discretion of the Contracting Officer, NBHA may terminate any and all contracts resulting from this RFP in whole or part upon fourteen days prior notice to the Contractor when it is determined to be in the best interest of NBHA.

9.19.4 The rights and remedies of NBHA provided under this section are not exclusive and are in addition to any other rights and remedies provided by law or under any contract.

9.19.5 In the event the resulting contract from this RFP is terminated for any reason, or upon its expiration, NBHA shall retain ownership of all work products including deliverables, source and object code, microcode, software licenses, and documentation in whatever form that may exist. In addition to any other provision, the Contractor shall transfer title and deliver to NBHA any partially completed work products, deliverables, source and object code, or documentation that the Contractor has produced or acquired in the performance of any resulting contract.

9.20 Examination and Retention of Contractor's Records: NBHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under all contracts executed as a result of this RFP, have access to and the right to examine any of the Contractor's

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directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audits, examinations, excerpts and transcriptions.

9.21 Invoicing (If applicable):

9.21.1 Contractor will only be allowed to invoice for the cost of services/goods in compliance with his/ her proposal or best and final offer as accepted by NBHA.

9.21.2 Invoices must contain a complete description of the work or service that was performed, the contract price for each service, the purchase order number, date of service, and address of service location or delivery address.

9.21.3 Contractor must submit a separate invoice for each purchase order issued by NBHA. Each service delivery must have a separate and unique purchase order number.

9.21.4 NBHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. NBHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses. For more detail on progress payments refer to the attached Form 5370 (11-2006).

9.21.5 Upon the Award of Contract, Contractor shall receive a request from NBHA to process all payments electronically to insure prompt and efficient payment of all invoices.

9.21.6 If offered by Contractor, NBHA seeks a discount for early payment. NBHA shall only take such a discount if earned.

9.22 Interlocal Participation

9.22.1 NBHA may from time to time enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance NBHA's purchasing power. At NBHA's sole discretion and option, NBHA may inform other Entities that they may acquire items listed in this RFP. Such acquisition(s) shall be at the prices stated herein, and shall be subject to Contractor's acceptance.

9.22.2 In no event shall NBHA be considered a dealer, remarketer, agent or other representative of Contractor or Entity. Further, NBHA shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

9.22.3 Purchase orders shall be submitted to Contractor by the individual Entity.

9.22.4 NBHA shall not be liable or responsible for any obligation, including but not limited to, payment and for any item or service ordered by an Entity, other than NBHA.

9.23 Right to data and Patent Rights: NBHA 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

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Contractor pursuant to the terms of any resulting contract, including but not limited to, reports, memoranda or letters concerning the research and reporting tasks of any resulting contract. Both parties agree to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent and Copyright Infringement.

9.24 Lobbying Certification: By proposing to do business with NBHA or by doing business with NBHA, each proposer certifies the following:

9.24.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

9.24.2 If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form "Disclosure Form to Report Lobbying", in accordance with its instructions.

9.24.3 The successful proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers, (including but not limited to subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

9.25 Executive Order 11246: For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).

9.26 Copeland "Anti-Kickback" Act: For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).

9.27 Davis-Bacon Act: For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5) and attached wage decision.

9.28 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act: For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers

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awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).

- 9.29 Clean Act Air:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) and any amendments.
- 9.30 Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 STAT. 871) and any amendments.
- 9.31 Executive Order 11061:** Both parties agree that they will comply with this order, which directs the Secretary of HUD to take all action, which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 9.32 Public Law 88-352, Title VI of the Civil Rights Act of 1964, and its amendments:** Both parties agree that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. NBHA hereby extends this requirement to the Contractor and its subcontractors.
- 9.33 Public Law 90-284, Title VIII of the Civil Rights Act of 1968 and its Amendments (Fair Housing Act):** Both parties agree to comply and prohibit any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. As a result, NBHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 9.34 Age Discrimination Act of 1975 and its amendments:** Requires the Contractor to prohibit discrimination on the basis of age.
- 9.35 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.) and its amendments:** NBHA requires Contractors to comply with this law.
- 9.36 HUD Information Bulletin 909-23:** Contractors shall comply with the following laws and regulations:
- 9.36.1** Notice of Assistance Regarding Patent and Copyright Infringement.
 - 9.36.2** Clean Air and Water Certification.
 - 9.36.3** Energy Policy and Conservation Act.
- 9.37 Copy Rights/Rights in Data** NBHA has unlimited rights to any data, including computer software, developed by the Contractor in the performance of the Contract specifically:

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- 9.37.1** Except as provided elsewhere in this clause, NBHA shall have unlimited rights in data first produced in the performance of this Contract; form, fit, and function data delivered under this Contract; data delivered under this Contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this Contract; and all other data delivered under this Contract unless provided otherwise for limited rights data or restricted computer software.
- 9.37.2** Contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this Contract, unless provided otherwise in this contract; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this contract; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this contract; and establish claim to copyright subsisting in data first produced in the performance of this Contract to the extent provided below.
- 9.37.3** For data first produced in the performance of this Contract, the contractor may establish, without prior approval of the CA, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this Contract. The Contractor grants NBHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of NBHA.
- 9.37.4** The Contractor shall not, without the prior written permission of the CA, incorporate in data delivered under this Contract any data not first produced in the performance of this Contract and which contains copyright notice, unless the Contractor identifies such data and grants NBHA a license of the same scope as identified in the preceding paragraph.
- 9.37.5** NBHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this Contract are improperly marked, NBHA may either at its discretion return the data to the Contractor or cancel or ignore the markings.
- 9.37.6** The Contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the Contractor's obligations under this Contract.
- 9.37.7** Notwithstanding any provisions to the contrary contained in the Contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this Contract, and irrespective of whether any such contract has been proposed prior to the award of this Contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the Contractor agrees that NBHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this Contract. The terms and conditions of any resulting contract, including any commercial lease or licensing contract shall be subject to the following procedures.
- 9.37.7.1** The restricted computer software delivered under a resulting contract may not be used, reproduced, or disclosed by NBHA except as provided below or as expressly stated otherwise in a resulting contract. The restricted computer software may be used accordingly:

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9.37.7.1.1 Used or copied for use in or with the computers for which it was acquired, including use at any NBHA location to which such computer may be transferred;

9.37.7.1.2 Used or copied for use in or with backup computer if any computer for which it was acquired is inoperative;

9.37.7.1.3 Reproduced for safekeeping (archives) or backup purposes;

9.37.7.1.4 Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in a resulting contract; and

9.37.7.1.5 Used or copied for use in or transferred to a replacement computer.

9.38 Additional Information: Each provision of law and each clause, which is required by law to be inserted in this RFP or any contract, shall be deemed to have been inserted herein, and this RFP and any resulting contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party. The aforementioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessary applicable nor is an omission of such statute, regulation or executive order intended to indicate that it is not applicable.

9.39 Conflicting Conditions: In the event there is a conflict between the documents comprising this RFP and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached HUD forms and the term/conditions in the body of any resulting contract; (2) the RFP; and (3) Contractor's Response. In the event that a conflict exists between any state statute or federal law the most restrictive terms shall apply.

9.40 Interpretations: No official oral interpretation can be made to any proposer as to the meaning of any instruction, condition, specifications, drawing (if any), or any other document issued pertaining to this RFP. Every request for an official interpretation shall be made by the prospective proposer, in writing at least seven (7) days prior to the submission deadline. Official interpretations will be issued in the form of addenda, which will be posted on www.nbhatx.us and nahro.economicengine.com; but it shall be the prospective proposer's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the RFP documents and the proposed contract with the successful proposer and all proposers shall be bound by such addenda, whether or not received by the prospective or successful proposer(s).

9.41 Contract Form: NBHA will not execute a contract on the successful proposer's form. Contracts will only be executed on NBHA's form. By submitting a proposal, the successful proposer agrees to this condition. However, NBHA will consider any contract clauses that the proposer wishes to include therein, but the failure of NBHA to include such clauses does not give the successful proposer the right to refuse to execute NBHA's contract form. It is the responsibility of each prospective proposer to notify NBHA, in writing, with the proposal submittal of any contract clauses that prospective proposer is not willing to include in the final executed contract. NBHA will consider such clauses and determine whether or not to amend the Contract.

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- 9.42 Liquidated Damages:** For each day that performance under a resulting contract from this RFP is delayed beyond the time specified for completion, the successful proposer shall be liable for liquidated damages in the amount of \$50.00 per day. However, the timeframe for performance may be adjusted at NBHA's discretion in writing and received by the successful proposer prior to default under any resulting contract.
- 9.42.1 Force Majeure:** Neither NBHA nor Contractor shall be held responsible for delays or default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively, NBHA or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- 9.43 Immigration Reform:** By submitting a proposal Contractor certifies compliance with the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986 who will perform any labor or services under any resulting contract.
- 9.44 Most Favored Customer:** The Contractor agrees that if during the term of any resulting contract, the Contractor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the resulting Contract will at NBHA's option, be amended to accord equivalent advantage to NBHA.
- 9.45 Lapse in Insurance Coverage:** In the event Contractor fails to maintain insurance as required by a resulting contract, the Contractor shall immediately cure such lapse in insurance coverage at the Contractor's expense, and pay NBHA in full for all costs and expenses incurred by NBHA under this Contract as a result of Contractor's failure to maintain insurance as required, including costs and reasonable attorney's fees relating to NBHA's attempts to cure such lapse in insurance coverage. Such costs and attorney fees, not to exceed fifteen hundred and 00/100 dollars (\$1,500.00), shall be automatically deducted from monies or payments owed to Contractors. Moreover, NBHA shall retain from monies or payments owed to Contractor by NBHA five percent (5%) of the value of the Contract and place this retainage into an account to cover NBHA's potential exposure to liability during the period of such lapse. This retainage shall be held by NBHA until six (6) months after the term of the resulting contract has ended or has otherwise been terminated, cancelled or expired and shall be released if no claims are received or lawsuits filed against NBHA for any matter that should have been covered by the required insurance.
- 9.46 Fair Labor Standards Act:** Both parties hereby agree to comply with the provisions of the Fair Labor Standards Act (29 U.S.C. 201, et seq).

ATTACHMENTS

ATTACHMENT A PROPOSAL FEE FORM, PROPOSER'S CERTIFICATION COST ANALYSIS

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FORM OF PROPOSAL (Attachment A)

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

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

X=ITEM INCLUDED	SUBMITTAL ITEMS: <i>One (1) Original Signature Copy and Three (3) exact copies of proposal less pricing information</i>	
_____	Tab 1	Form of Proposal (Attachment A)
_____	Tab 2	HUD Forms & Conflict of Interest Questionnaire(Attachment B)
_____	Tab 3	Profile of Firm Form (Attachment C)
_____	Tab 4	Performance, Managerial, Operational and Financial Capacity, Service Plan
_____	Tab 5	Client Information
_____	Tab 6	Subcontractor/Joint Venture Information
_____	Tab 7	Section 3 Business Plan & Documentation
_____	Tab 8	S/W/MBE Business Plan
_____	Tab 9	Company Biography and other information

SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES___ or NO___. If “YES,” pursuant to the documentation justifying such submitted under Tab No. 8, which priority are you claiming?

_____ Priority I

_____ Priority II

_____ Priority III

_____ Priority IV

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Fee Form

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this proposal submittal, the proposer is verifying that all information provided herein is, to the best of the proposer's knowledge, true and accurate, and that if NBHA discovers that any information entered herein to be false, that shall entitle NBHA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, and by entering and submitting the costs where provided, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by NBHA, in hard copy. Pursuant to all RFP Documents, all attachments, and all completed Documents submitted by proposer, including these forms, addendums, and all attachments, the undersigned proposes to supply NBHA with the services described herein for the fee(s) entered within the areas provided.

Base Bid

Proposed fees for the Strategic Planning Facilitation Services as specified herein including travel and per diem are: \$ _____ for Stage 1 & Stage 2.

Stage 1 only: \$ _____ Stage 2 only: \$ _____

Delivery shall be completed in 120 days from notice to proceed.

Staff Prices: Hourly staff pricing will be utilized for additional work if requested by NBHA. The actual amount required will be only as requested by NBHA and may be none at all. **These hourly prices are not included in the base bid above.**

Item	Staff Name & Title	Certifications	Hourly Rate
1			\$
2			\$
3			\$
4			\$
5			\$
6			\$
7			\$
8			\$
9			\$
10			\$
11			\$
12			\$
13			\$
14			\$
15			\$

Additional Travel Costs: To be utilized only if additional work is requested.

1. Air fare round trip per flight \$ _____ (NBHA will only reimburse Coach)
2. Per Diem daily rate \$ _____ (May not exceed GSA rate)
3. Rental Car per day \$ _____ (Mid-Size rate only)

NBHA will not pay surcharges to the Contractor to arrange for these services.

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In performing this contract, the contractor shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.

Initials_____

Non-Collusive Affidavit: The undersigned party submitting this Proposal hereby certifies that such Proposal is genuine and not collusive and that said Proposer has not colluded, conspired, connived or agreed, directly or indirectly, with any Proposer or person, to put in a sham Proposal or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the Proposal price of affiant or of any other Proposer, to fix overhead, profit or cost element of said Proposal price, or that of any other Proposer or to secure any advantage against NBHA or any person interested in the proposed contract; and that all statements in said Proposal are true.

Initials_____

Copies submitted contain an exact representation of the original proposal minus cost. NBHA accepts no liability for the omissions, deletions or errors in the copies of the proposal submitted.

Initials_____

Signature & Addenda Acknowledgements

Addendum #1 _____

Date _____

Addendum #2 _____

Date _____

Addendum #3 _____

Date _____

Signature

Date

Printed Name

Company

E-mail address if available :

Phone

Fax

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Proposer's Certification

By signing below, Proposer certifies that the following statements are true and correct:

1. Proposer has full authority to bind Proposer and that no member of Proposer's organization is disbarred, suspended or otherwise prohibited from contracting with any federal, state or local agency,
2. Items for which Proposals were provided herein will be delivered as specified in the Proposal,
3. Proposer proposes to furnish and deliver in accordance with the terms, conditions, and specifications embodied herein, all of which terms, conditions, and specifications are hereby accepted and made a part of this Proposal, all materials and supplies, which are described on the Proposal worksheets herein and opposite of which prices have been entered, at the price or prices quoted, subject to valid price reductions as hereafter defined, as ordered for delivery, by NBHA,
4. Proposer agrees that this proposal shall remain open and valid for at least a period of 90 days from the date of the Proposal Opening and that this Proposal shall constitute an offer, which, if accepted by NBHA and subject to the terms and conditions of such acceptance, shall result in a contract between NBHA and the undersigned Proposer,
5. Proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Proposal,
6. Proposer, nor the firm, corporation, partnership, or institution represented by the Proposer, or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State of Texas or the Federal Antitrust laws, nor communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business,
7. Proposer has not received compensation for participation in the preparation of the specifications for this RFP, and
8. The individual or business entity named in this Proposal is eligible to receive the specified payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate,

SIGNED: _____

(Print Name)

(Print Company Name)

(Company Phone & Fax & Email Address)

Seal if by Corporation

(Date)

Cost Analysis

HUD regulations require a cost analysis prior to an award of contract. Please supply the information requested below as to how the base proposal fee on the proposal fee sheet was calculated.

DIRECT COSTS:

Direct Labor (Personnel) \$ _____

Equipment \$ _____

Supplies \$ _____

Travel and Per Diem \$ _____

Subcontractors or Consultants \$ _____

Other: \$ _____
(Computer time, copying, long distance phone calls, etc.)

INDIRECT COSTS:

Overhead \$ _____

General & Administrative Expenses \$ _____

PROFIT OR FEE \$ _____

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**ATTACHMENT B
HUD FORMS AND CONFLICT OF INTEREST QUESTIONNAIRE**

Instructions to Offerors Non-Construction

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

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General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Labor Relations
OMB Approval No. 2577-0157 (exp. 1/01/2014)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

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

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

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
(b) "Contract" means the contract entered into between the Authority and the Contractor.
(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.

- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein.
(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).
(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;
(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.

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- (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

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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:

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-
- (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.
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16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

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TEXAS CONFLICT OF INTEREST QUESTIONNAIRE (FORM CIQ)

<https://www.ethics.state.tx.us/data/forms/conflict/CIQ.pdf>

**HOUSING AUTHORITY OF THE CITY OF NEW BRAUNFELS TEXAS
ATTACHMENT C PROFILE OF FIRM FORM SUBCONTRACTOR LISTING FORM**

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PROFILE OF FIRM FORM (Page 1 of 2)

(1) Prime Joint Venture/Partner Sub-contractor (This form shall be completed by and for each).

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

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

(4) Identify Principals/Partners in Firm

NAME	TITLE	% OF OWNERSHIP

(5) Please indicate the operating structure of your company.

Publicly Held Corporation Privately Held Corporation Government Agency Non-Profit Organization Partnership Sole Proprietorship

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

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

African American **Native American Hispanic American Asian/Pacific American Hasidic Jew Asian/Indian American

_____ % _____ % _____ % _____ % _____ % _____ %

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

_____ % _____ % _____ % _____ % _____ %

Is the business 51% or more owned by a public housing resident? Yes No. If yes, provide name and address of the public housing facility:

Facility _____ Name: _____

Facility Address: _____ City: _____

SWMBE Certification Number: _____

Certification Agency: _____ (NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED – ENTER IF AVAILABLE)

300 LAUREL LANE • NEW BRAUNFELS, TX 78130 • WWW.NBHATX.US • PH: 830.625.6909 • FAX: 830625.6915

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PROFILE OF FIRM FORM (Page 2 of 2)

- (8) Federal Tax ID Number: _____

- (9) City of New Braunfels Business License No.: _____

- (10) State of Texas License Type and No.: _____

- (11) Has your firm or any member of your firm been a party to litigation with a public entity? If yes, when, with whom and state the circumstances and any resolution.
- (12) Has your firm or any member of your firm ever sued or been sued by the New Braunfels Housing Authority or its affiliated entities? **Yes No Initials**_____ If yes, when and state the circumstances and any resolution of the lawsuit.
- (13) Has your firm or any member of your firm ever had a claim brought against because of breach of contract or nonperformance? **Yes No Initials**_____ If yes, when and state the circumstances and any resolution of the matter.
- (14) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of Texas, or any local government agency within or without the State of Texas? **Yes No Initials**_____ If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (15) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of NBHA? **Yes No Initials**_____ If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such proposal is genuine and not collusive and that said Offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any Offeror or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other Offeror, to fix overhead, profit or cost element of said proposal price, or that of any other Offeror or to secure any advantage against the NBHA or any person interested in the proposed contract; and that all statements in said proposal are true. **Initials**_____
- (17) Verification Statement: The undersigned Offeror hereby states that by completing and submitting this form the Offeror is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the NBHA discovers that any information entered herein is false, that shall entitle the NBHA to not consider nor make award or to cancel any award with the undersigned party. **Initials**_____

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(18) In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act. **Initials** _____

Signature

Date

Printed Name

Company

HOUSING AUTHORITY OF THE CITY OF NEW BRAUNFELS TEXAS

Note: A completed Profile of Firm Form must be submitted for each subcontractor and placed under Tab 6.

Proposed Subcontractors			
Item	Specialty	Company Name	Section 3-SWMBE
1			
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<p>I understand and agree that if awarded a contract as a result of this solicitation that the use of the above subcontractors is subject to the approval of NBHA and becomes a part of the contract. I further understand that any change in subcontractors also requires the pre-approval of NBHA.</p>			
<p>_____</p> <p>(Signature)</p>		<p>_____</p> <p>(Date)</p>	
<p>_____</p> <p>(Printed Name & Title)</p>			

Note: A completed Profile of Firm Form must be submitted for each subcontractor and placed under Tab 6.

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HOUSING AUTHORITY OF THE CITY OF NEW BRAUNFELS TEXAS

ATTACHMENT D SECTION 3 GUIDELINES

The Section 3 guidelines are contained here: <https://www.hud.gov/section3>