



# **Yolo County Housing**

**Lisa A. Baker, Executive Director**

147 W. Main Street  
WOODLAND, CA 95695

Woodland: (530) 662-5428  
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TTY: (800) 545-1833, ext. 626

## BOARD OF COMMISSIONERS

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Marlene Garnes  
Michael H. McGowan  
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Helen M. Thomson  
Steven Tupolo  
Mariko Yamada

DATE: December 11, 2008  
TO: YCH Board of Commissioners  
FROM: Lisa Baker, Executive Director  
PREPARED BY: Fred Ichtertz, Facilities/Maintenance Manager

**SUBJECT:** Review and Approve Agreement for Landscaping Services with Machado Landscape Company and Authorize the Executive Director to execute the agreement

### **RECOMMENDED ACTIONS:**

That the Board of Commissioners;

1. Review and Approve an Agreement for Landscaping Services with Machado Landscape Company for a term not exceed three (3) years; and
2. Authorize the Executive Director to execute the agreement

### **BACKGROUND / DISCUSSION**

Currently, YCH is paying over \$99,000 per year on maintaining landscape areas at twelve (12) public and two (2) non-profit housing sites. In addition, YCH is currently managing four separate contracts for this service. Staff has been looking at ways to reduce costs and to consolidate services in order to streamline operations.

OMB requires that the YCH bid for professional services every three (3) years unless it has an MOU with another public agency for services. For the past several years, the YCH has been receiving landscape services from County Probation Department. In order to meet OMB requirements and because of continuing cost increases from Probation, staff issued an Invitation for Bid (IFB) for Turf Management on Sept 1, 2008; bidders could submit proposals on one or all sites. On October 15, 2008 three bids were received for the IFB:

Bidder	Addenda's 1 & 2	HUD 5369-C	Total AMP Development Price Per Year						Total Price
			AMP 1 Woodland	AMP 2 Winters	AMP 3 West Sac	310 Main Office	320 Trinity Street	400 Cottonwood	
Machado Landscaping Woodland	Yes	Yes	\$19,733	\$29,069	\$23,033	\$2,750	\$1,465	\$2,750	Price for All AMPS \$78,800
TCS Turfs West Sacramento	Yes	Yes	\$38,300	\$29,100	\$0	\$0	\$0	\$0	Price for Two AMPS \$67,400
Yolo County Probations Dept.	Yes	Yes	\$59,301	\$42,261	\$0	\$0	\$0	\$0	Price for Two AMPS \$101,562

One proposal not listed above was received one day late and was rejected as being late and non-compliant. The Machado Landscape proposal included all sites and is compliant with all requirements within the IFB.

**FISCAL IMPACT**

None, currently all cost for landscaping services are covered within each site budget. Cost savings are projected to be \$63,173 over all sites over the next three years if the contract is approved.

**CONCLUSION**

Staff recommends that the Board approve and authorize the Executive Director to execute agreement with Machado Landscape Company of Woodland for landscape services.

**EXHIBIT A  
SAMPLE AGREEMENT**

**YOLO COUNTY HOUSING**

**AGREEMENT NO. \_\_\_\_\_**

**(Agreement for Turf Management Services)**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the Housing Authority of the County of Yolo, a public body corporate and politic ("YCH"), and \_\_\_\_\_ ("Contractor"), who agree as follows:

**RECITALS**

**WHEREAS**, YCH is authorized under Federal and State law to make contracts as necessary for the exercise of its powers; and

**WHEREAS**, YCH desires to obtain turf management services at six of its developments/AMPS located in Esparto, Knights Landing, West Sacramento, Winters, and Woodland; and

**WHEREAS**, YCH circulated and distributed an invitation for bids, a copy of which is attached as Exhibit A; and

**WHEREAS**, Contractor submitted a bid to provide turf management services at the desired locations, a copy of which is attached as Exhibit B; and

**WHEREAS**, YCH has determined that Contractor is the lowest responsive and responsible bidder.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, it is agreed by and between YCH and Contractor as follows:

**Article 1. Contract Documents.**

The complete Contract between the parties shall consist of the following component parts, to wit:

1. This Agreement;
2. Exhibit A – Invitation for Bids with Appendix I (Federal Requirements including form HUD-5370-C, Section II), Appendix II (Confidentiality Requirements), and Appendix III (Insurance Requirements);
3. Exhibit B- Contractor's Bid; and
4. Exhibit C - YCH's Notice of Award.

**Article 2. Scope of Services.**

- 2.1 During the Initial Term and/or Option Term (collectively referred to as "Term") of this Agreement, Contractor shall provide to YCH (Describe Services to be Provided):

\_\_\_\_\_ in accordance with Exhibit A, and in a manner satisfactory to YCH's Executive Director or his/her designee ("Project Manager").

- 2.2 Contractor shall furnish all tools, equipment, apparatus, labor, workmanship, and transportation necessary to perform and complete the services required under this Agreement.
- 2.3 Contractor shall perform all work in a neat and professional manner using the best recognized practices of the particular trade involved and shall be accomplished by persons skilled and trained to properly complete the services required. YCH reserves the right to request changes in the Contractor's representation, if at YCH's sole discretion, the assigned personnel are not satisfying the needs of the YCH. The services shall proceed vigorously to completion once it is started.

**Article 3. Term of Agreement.**

- 3.1 Initial Term. Contractor shall perform the services under this Agreement for a term of \_\_\_\_ (\_\_) years, beginning on \_\_\_\_\_, 200\_\_ and ending on \_\_\_\_\_, 20\_\_ ("Initial Term"), unless sooner terminated as hereinafter provided.
- 3.2 Option Term. At the conclusion of the Initial Term, YCH shall have the option of extending the Agreement for an additional \_\_\_\_ (\_\_) year period, beginning on \_\_\_\_\_, 20\_\_ and ending on \_\_\_\_\_, 20\_\_ ("Option Term"). To exercise the option, YCH must provide to Contractor written notice of said exercise at least thirty (30) days prior to the end of the Initial Term.

**Article 4. Compensation.**

- 4.1. Initial Term. Subject to Contractor's satisfactory and complete performance of all the terms and conditions of this Agreement, and upon Contractor's submission of appropriate invoices, YCH shall pay Contractor an annual compensation in an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_) during the Initial Term of this Agreement.
- 4.2. Option. Subject to Contractor's satisfactory and complete performance of all the terms and conditions of this Agreement, and upon Contractor's submission of appropriate invoices, YCH shall pay Contractor an annual compensation in an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_) during the Option Term.

## **Article 5. Payment For Services.**

- 5.1 Contractor shall invoice YCH on a monthly basis. Within ten (10) days at the end of each month, Contractor shall submit an invoice to YCH for services rendered under the Agreement to the following address:

Yolo County Housing  
Attention: Executive Director  
147 W. Main Street  
Woodland, CA 95695

The invoice submitted pursuant to this Article shall show the YCH Purchase Order number and Agreement number, if any, hours worked by each person who performed services during the billing period, the hourly rate of pay for each person who performed services, the dates on which the services were performed, a description of the services performed, actual out-of-pocket expenses, along with back-up documentation, incurred in the performance of the services, and such other information as YCH may reasonably require.

- 5.2 Within fifteen (15) calendar days of the receipt of Contractor's detailed invoice, the Project Manager shall either authorize payment or advise Contractor in writing of any concerns that the Project Manager has with the invoice and any need for further documentation.
- 5.3 Within thirty (30) calendar days of the Project Manager's authorization for payment of an invoice, YCH's Finance Director shall either issue the payment or advise Contractor in writing of any concerns that the Finance Director has with the request and any need for further documentation.
- 5.4 YCH reserves the right to withhold payments in the event of Contractor's performance being materially non-compliant with the Agreement.
- 5.5 Contractor's final invoice shall be clearly marked "FINAL."

## **Article 6. Compliance With Federal Requirements.**

During the Term of this Agreement, Contractor shall comply with all Federal requirements described in Appendix I.

## **Article 7. Contractor's Responsibility.**

- 7.1 Contractor shall be responsible for the work performed under the terms of this Agreement to the extent provided by law. Contractor agrees not to disclose information identified by YCH as proprietary to third parties, unless approved in advance by YCH or required by law.
- 7.2 YCH shall not be held liable or responsible for the maintenance and/or safety of the Contractor's equipment or supplies placed upon YCH's property. Contractor

acknowledges that it assumes full responsibility for any loss or damage to its equipment and supplies while on YCH's property.

- 7.3 Any materials, equipment, or work found to be damaged or defective shall be repaired, replaced, or corrected by the Contractor without additional cost to YCH.
- 7.4 Contractor shall be responsible for paying all sales, use, and other taxes which are applicable to equipment and materials associated with this procurement. YCH's financial obligation shall be limited to the amounts outlined in the Agreement.
- 7.5 Confidentiality. Contractor shall comply with all confidentiality requirements described in Appendix II. Additionally, Contractor agrees to abide by the following:
  - 7.5.1 Contractor shall not permit on YCH premises any person who is not an employee or principal with the company, and currently on duty.
  - 7.5.2 All paperwork, documents, magnetic, and other media at YCH offices are considered to be the property of YCH, confidential and privileged.
  - 7.5.3 Contractor and its employees are not authorized to read any YCH paperwork or to make use of any equipment, including phones and computers, on or in any desks or offices, without prior consent from the Project Manager.
  - 7.5.4 A violation of this Article 7.5, relating to confidentiality, by Contractor is a material breach of the Agreement and may result in termination of the Agreement at the sole discretion of YCH.

#### **Article 8. Insurance And Workers' Compensation.**

- 8.1 Contractor shall comply with all insurance and workers' compensation requirements described in Appendix III. If Contractor has no employees during the Term of this Agreement, then Contractor is not required to obtain employer's liability insurance nor workers' compensation insurance. Contractor, however, shall be required to obtain worker's compensation insurance and employer's liability insurance satisfying the requirements described in Appendix III if Contractor hires any employee during the Term of this Agreement.
- 8.2 Within five (5) business days after the Notice of Award is issued, Contractor shall provide to YCH a Certificate of Liability Insurance with Endorsement naming the Housing Authority of the County of Yolo and its employees, agents, and officers as additionally named insured, and providing that the insurance may not be canceled without providing YCH a minimum of thirty (30) days prior written notice of such cancellation. The required insurance shall be maintained in full force and effect for the duration of this Agreement and must be in an amount and format satisfactory to YCH.

- 8.3 Within five (5) business days after the Notice of Award is issued, Contractor shall have on file with YCH either a certificate of workers' compensation insurance coverage or a letter certifying that the contractor has no covered employees.

**Article 9. Indemnity.**

- 9.1 Contractor shall exercise all of the care and judgment consistent with good practices in the performance of the services required by this Agreement. In addition, Contractor shall indemnify, defend and hold harmless YCH, its officers, agents, employees and volunteers, from any and all claims, demands, costs (including attorney fees), expenses, judgments, liability, loss, injury, or damages arising out of or in connection with the performance of this Agreement by Contractor and/or its employees, officers, agents or subcontractors, excepting only loss, injury, or damage caused by the negligence or willful misconduct of personnel employed by YCH. Contractor shall at its own expense defend any and all such actions, and shall at its own expense pay all costs (including attorney fees), and other expenses arising therefrom or incurred in connection therewith. If any judgment shall be rendered against YCH in any such action, Contractor shall at its own expense satisfy and discharge the same.
- 9.2 As a condition to any indemnity under this Article 9, YCH shall notify Contractor promptly of any claim for which it is responsible hereunder. In providing any defense under this Article 9, Contractor shall use counsel reasonably acceptable to YCH.
- 9.3 The provisions of this Article 9 shall survive the termination or expiration of this Agreement.

**Article 10. Waiver.**

A waiver of any of the conditions or provisions of the Agreement between the parties hereto shall not be considered or deemed to be a waiver of any other condition or provision of said Agreement or a waiver of the same condition at a future time.

**Article 11. Assignment.**

Contractor shall not assign, transfer, convey, subcontract or otherwise dispose of this Agreement or his/her right, title, or interest in or to the same or any part hereof without prior written consent from YCH.

**Article 12. Public Records Act.**

Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

### **Article 13. Termination of Agreement.**

- 13.1 Termination by Mutual Consent. This Agreement may be terminated by the mutual consent of both parties, upon such terms and conditions as may be mutually agreed.
- 13.2 Termination for Convenience. YCH may terminate this Agreement at any time for convenience by giving Contractor thirty (30) calendar days advance written notice. Notice of termination shall be by certified mail. Upon receipt of the notice of termination, Contractor shall cease work, wrap up, and conclude work without undertaking any new orders, tasks or work. Contractor shall promptly submit its termination claim to YCH to be paid to Contractor.
- 13.3 Termination by Contractor's Breach or Default.
- 13.3.1 In the event that the Contractor fails to perform the terms and conditions of this Agreement, YCH shall have the right to terminate this Agreement.
- 13.3.2 In the event of a breach or default by Contractor under this Agreement, YCH shall be under no obligation to pay to Contractor the compensation amount described in Article 4, or any portion thereof, unless YCH finds Contractor has partially performed said Agreement and said partial performance benefits YCH, under which circumstances YCH shall pay to Contractor that portion of the Compensation Amount which the part performance bears to the total performance, less all damages and losses suffered by YCH as a result of Contractor's failure to perform.
- 13.3.3 In the event of a breach or default by Contractor under this Agreement, Contractor may be debarred and denied participation of in HUD programs as a Contractor and a subcontractor as provided for in 24 CFR Part 24.
- 13.4 Opportunity to Cure. YCH in its sole discretion may, in the case of a termination for breach or default, allow Contractor fifteen (15) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to YCH's satisfaction the breach or default or any of the other terms, covenants, or conditions of this Agreement within fifteen (15) days after receipt by Contractor or written notice by YCH setting forth the nature of said breach or default, YCH shall have the right to terminate this Agreement without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude YCH from also pursuing all available remedies against Contractor and its sureties for said breach or default.



### 13.5 Disputes.

- 13.5.1. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the parties, shall be decided in writing by the authorized representative of YCH's Executive Director. This decision shall be final and conclusive unless within fifteen (15) days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to YCH's Executive Director. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. Disputes will be resolved in conformance with the requirements of the Agreement. The Executive Director, within sixty (60) days, will decide the dispute or notify Contractor of the date by which the decision will be made. The decision of the Executive Director on the appeal shall be final for purposes of exhaustion of administrative remedies.
- 13.5.2 Unless otherwise directed by YCH, Contractor shall continue performance under the Agreement while matters in dispute are being resolved.
- 13.5.3 Except as otherwise provided for in this Agreement, all claims, counterclaims, disputes and other matters in question between YCH and Contractor arising out of or relating to this Agreement or its breach will be decided by, arbitration if the parties mutually agree, or in a court of competent jurisdiction located in Woodland, California.
- 13.5.5 The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by YCH or Contractor shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.
- 13.6 The rights afforded to YCH under this Article 13 shall be in addition to any other rights provided by law or set forth in this Agreement. YCH may exercise any or all of such rights which individually or conjunctively will totally compensate YCH for the damages suffered by YCH resulting from the default of Contractor.
- 13.7 In the event that YCH elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by YCH shall not limit YCH's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

**Article 14. Notice.**

14.1. Except as otherwise provided for in this Agreement, all notices shall be made in writing and either served personally, sent by certified mail with return receipt requested, or sent by facsimile provided confirmation of delivery is obtained at the time of facsimile transmission, addressed as follows:

To YCH:                    Yolo County Housing  
                                 Attention: Executive Director  
                                 147 W. Main Street  
                                 Woodland, CA 95695  
                                 Telephone No.:(530) 662-5428  
                                 Fax No.: (530) 662-5429

To Contractor:            \_\_\_\_\_  
                                 Attention: \_\_\_\_\_  
                                 \_\_\_\_\_  
                                 \_\_\_\_\_  
                                 Telephone No.: (\_\_\_\_) \_\_\_\_\_  
                                 Fax No.: (\_\_\_\_) \_\_\_\_\_

- 14.2 Any Party may change the address to which notice is to be given by providing the other Party with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.
- 14.3 Service of notices shall be deemed complete on the date of receipt if personally served, if served using facsimile machines provided confirmation of delivery is obtained at the time of facsimile transmission, or if sent by certified mail with return receipt requested. However, if signature is refused on a notice sent by certified mail with return receipt requested, then service shall be deemed complete three (3) days after the recipient refuses to sign. Service of notices sent by first class mail shall be deemed complete on the fifth (5<sup>th</sup>) day following deposit in the United States mail.

**Article 15. Miscellaneous Provisions.**

- 15.1. Exhibits. All of the Exhibits mentioned in this Agreement are incorporated herein by this reference. In the event of any conflict between any of the provisions of this Agreement or Exhibits, the provision that requires the highest level of performance from Contractor for YCH's benefit shall prevail.
- 15.2 Governing Law. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a court of competent jurisdiction located in Woodland, California.

- 15.3 Time of the Essence. Time is of the essence in the performance of every term, covenant, condition, and provision of this Agreement.
- 15.4 Warranty of Authority. The person executing this Agreement on behalf of Contractor affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of Contractor and to bind Contractor to the terms, covenants and conditions of this Agreement. Both the person executing this Agreement on behalf of Contractor and Contractor understand that YCH is relying on this representation in entering into this Agreement.
- 15.5 Successors and Assigns. Subject to any provision under this Agreement restricting assignment or subcontracting by Contractor, the provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the Parties to this Agreement.
- 15.6 Status of Contractor.
- 15.6.1. It is understood and agreed by all the parties hereto that Contractor is an independent contractor and that no relationship of employer-employee exists between YCH and Contractor. Neither Contractor nor Contractor's assigned personnel shall be entitled to any benefits payable to employees of YCH. Contractor hereby indemnifies and holds YCH harmless from any and all claims that may be made against YCH based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement or any services provided pursuant to this Agreement.
- 15.6.2. It is further understood and agreed by all the parties hereto that neither Contractor nor Contractor's assigned personnel shall have any right to act on behalf of YCH in any capacity whatsoever as an agent or to bind YCH to any obligation whatsoever.
- 15.6.3. It is further understood and agreed by all the parties hereto that Contractor must issue any and all forms required by Federal and State laws for income and employment tax purposes, including W-2 and 941 forms, for all of Contractor's assigned personnel.
- 15.7 Severability. If any provision of this Agreement is adjudicated by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- 15.8 Captions. The title or headings to the Articles of this Agreement are not part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

- 15.9 Amendment. This Agreement may only be amended in writing signed by both YCH and Contractor, and any other purported amendment shall be of no force or effect.
- 15.10 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same one document.
- 15.11 Entire Agreement. This Agreement, including any and all Exhibits, constitutes the entire agreement between YCH and Contractor and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any Party to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year set forth above.

**CONTRACTOR:**

\_\_\_\_\_

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**YCH:**

HOUSING AUTHORITY OF THE COUNTY OF YOLO

By: \_\_\_\_\_

Lisa A. Baker, Executive Director

EXHIBIT A  
INVITATION FOR BIDS

## APPENDIX I

### COMPLIANCE WITH FEDERAL REQUIREMENTS

During the Term of this Agreement, Contractor shall comply with all of the following federal requirements:

#### **I. General Obligation of Contractor**

Contractor shall at all times comply with all applicable United States Department of Housing and Urban Development (HUD) regulations, policies, procedures and directives, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor's failure to so comply shall constitute a material breach of this Agreement.

#### **II. Examination and Retention of Contractor's Records**

- A. Contractor shall retain any and all records related to this Agreement for a period of no less than three (3) years after final payment is made and all other pending matters are closed. The Housing Authority of the County of Yolo (YCH), HUD, or the Comptroller General of the United States, or any of their duly authorized representatives shall, until three (3) years after final payment has been made and all other pending matters are closed under this Agreement, 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 Agreement for the purpose of making audit, examination, excerpts, and transcriptions.
- B. Contractor agrees to include in first-tier subcontracts under this Agreement 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:
1. Appeals under the clause titled Disputes;
  2. Litigation or settlement of claims arising from the performance of this Agreement; or,
  3. Costs and expenses of this Agreement to which YCH, HUD, or the Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

#### **III. Copyrights and Rights in Data (Ownership and Proprietary Interest)**

YCH 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 Agreement,

including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Agreement. The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of YCH. Copies may be made for Contractor's records but shall not be furnished to others without written authorization from YCH. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by YCH.

**IV. Patents**

YCH shall possess all patent rights with respect to any discovery or invention which arises or is developed in the course of or under this Agreement. Contractor shall defend all suits or claims for infringement of any patent rights and shall save YCH harmless from loss on account thereof, except that YCH shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer(s) is specified and Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, Contractor has reason to believe that a design, process, or product specified is an infringement of a patent, Contractor shall promptly notify the Contracting Officer. Failure to give such notice shall make the Contractor responsible for the resultant loss.

**V. Energy Efficiency**

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 of California.

**VI. Suspension and Debarment**

Contractor shall not make any award to any subcontractor or permit any award to any subcontractor at any tier which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

**VII. Certificate and Release**

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

### **VIII. Organizational Conflicts of Interest**

- A. 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 Agreement and Contractor's organizational, financial, contractual or other interests are such that:
  - 1. Award of the contract may result in an unfair competitive advantage; or
  - 2. The Contractor's objectivity in performing the contract work may be impaired.
- B. Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this Agreement or any task/delivery order under the Agreement, 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. YCH may, however, terminate the Agreement or task/delivery order for the convenience of YCH if it would be in the best interest of YCH.
- C. In the event 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, YCH may terminate this Agreement 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. Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

### **IX. Inspection and Acceptance**

- A. YCH has the right to review, require correction, if necessary, and accept the work products produced by Contractor. Such review(s) shall be carried out within thirty (30) days so as to not impede the work of the Contractor. Any product of work shall be deemed accepted as submitted if YCH does not issue written comments and/or required corrections within thirty (30) days from the date of receipt of such product from the Contractor.
- B. Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to YCH within seven (7) days of notification or a later date if extended by YCH.
- C. Failure by Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If Contractor's submission of corrected work remains unacceptable, YCH may terminate this Agreement (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services rendered.



**X. Interest of Members of Congress**

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

**XI. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees**

The parties understand that no member, officer, or employee of YCH, no member of YCH's Board of Commissioners, 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 (1) year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**XII. Dissemination or Disclosure of Information**

Contractor shall not disseminate or disclose any information or material to the general public, the news media, or any person or organization without prior express written approval by YCH.

**XIII. Contractor's Status**

Contractor understands that it is an independent contractor and is not to be considered an employee of YCH, or assume any right, privilege, duties or benefits of an employee, including but not limited to unemployment, health/dental insurance, workers' compensation, vacation or sick leave. Contractor shall save harmless YCH and its employees from claims, suits, actions and costs of every description resulting from Contractor's activities on behalf of YCH in connection with this Agreement.

**XIV. Other Contractors**

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

**XV. Liens**

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

## **XVI. 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, 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. 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.

## **XVII. Equal Employment Opportunity**

- A. Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, sex, familial status, national origin, or disability.
- B. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during the employment without regard to their race, creed, color, religion, sex, familial status, national origin, or disability.
- C. 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, creed, color, religion, sex, familial status, national origin, or disability.

## **Labor Standards**

Contractor agrees to comply with all of the Labor Standard provisions described in the attached form HUD-5370-C, Section II.

## APPENDIX II

### COMPLIANCE WITH CONFIDENTIALITY REQUIREMENTS

During the Term of this Agreement, Contractor shall comply with all of the following confidentiality requirements:

1. Contractor, its employees, agents, and/or subcontractors understand that during the Term of this Agreement, he or she may learn of or have access to certain private and confidential information of the Housing Authority of the County of Yolo (YCH), its employees, tenants, clients, affiliates, vendors, and/or contractors.
2. At all times during the Term of this Agreement, Contractor, its employees, agents, and/or subcontractors shall keep strictly confidential any and all information provided to or obtained by Contractor relating to employee, tenant, client, affiliates, vendor, or contractor private information, including but not limited to, home addresses, mailing addresses, social security numbers, telephone numbers, financial records, medical records, employment records, criminal records, and credit histories.
3. At all times during the Term of this Agreement, Contractor, its employees, agents, and/or subcontractors shall keep strictly confidential any and all information provided to or obtained by Contractor relating to YCH records and New Hope Community Development Corporation (New Hope CDC) records, Nueva Esperanza Development Corporation (Nueva Esperanza) records, including but not limited to, YCH employee records, YCH plans, New Hope CDC plans, Nueva Esperanza plans, YCH activities, New Hope CDC activities, or Nueva Esperanza activities.
4. At all times during the Term of this Agreement, Contractor, its employees, agents, and/or subcontractors shall not disclose any information provided to or obtained by Contractor relating to employee, tenant, client, affiliates, vendor, or contractor private information, including but not limited to, home addresses, mailing addresses, social security numbers, telephone numbers, financial records, medical records, employment records, criminal records, and credit histories, unless such disclosure is necessary to perform the services required by this Agreement, YCH's Executive Director authorizes in writing such disclosure, or a properly authorized release of information is on file with YCH.
5. At all times during the Term of this Agreement, Contractor, its employees, agents, and/or subcontractors shall not remove from YCH premises any tenant, client, employee, affiliate, vendor, or contractor file.

## APPENDIX III

### INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

#### ***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

#### ***Minimum Limits of Insurance***

Contractor shall maintain limits no less than:

1. General Liability:  
  
(Including operations, products and completed operations.) **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
3. Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.
4. Workers' Compensation: **Statutory Limit.**

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Housing Authority of Yolo County (YCH). At the option of YCH, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects YCH, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to YCH guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

### ***Other Insurance Provisions***

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. Yolo County Housing, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy (CG 20 10 11 85).
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects Yolo County Housing, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by YCH, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy (including Workers Compensation Insurance) required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to Yolo County Housing.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

### ***Verification of Coverage***

Contractor shall furnish Yolo County Housing with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by Yolo County Housing or on other than the Yolo County Housing's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by Yolo County

Housing before work commences. Yolo County Housing reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

***Subcontractors***

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

**LIABILITY  
WAIVER OF SUBROGATION**

Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide Comprehensive General and Automobile Liability insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to Housing Authority of the County of Yolo (Yolo County Housing), on behalf of any insurer providing Comprehensive General and Automobile Liability insurance to either Contractor or Yolo County Housing with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer of said Contractor may acquire against the Yolo County Housing by virtue of the payment of any loss under such insurance.

**Bid Package Instructions**

**Instructions to Bidders for Completing, Executing, and Submitting Evidence of Insurance to the Housing Authority of the County of Yolo**

**PROVIDE THIS DOCUMENT AND ATTACHMENTS TO YOUR INSURANCE AGENT.**

INSURED: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Bidder, Contractor, Lessee, Permittee, etc.)

AGREEMENT/REFERENCE NUMBER: \_\_\_\_\_

**A. Insured (Bidder, Contractor, Vendor, or Tenant)**

1. In order to reduce problems and time delays in providing evidence of insurance to the Housing Authority of the County of Yolo (YCH) you are requested to give your insurance agent or broker a copy of the attached Insurance Requirements Sheet, along with these instructions for completing, executing, and submitting evidence of insurance.
2. If the agreement requires Workers' Compensation coverage and you have been authorized by the State of California to self-insure Workers' Compensation, then a copy of the certificate from the State authorizing self-insurance for Workers' Compensation shall meet the requirements for Workers' Compensation insurance covering activities within the State.
3. All questions relating to insurance should be directed to the YCH department or office responsible for your contract, lease, permit, or other agreement.

**B. Insurance Agent or Broker**

1. The appropriate endorsement form shall be used. Certificates of Insurance alone will not be accepted by YCH.
2. More than one insurance policy may be required to comply with the insurance requirements. The YCH's insurance requirements to your insured's agreement, contract, lease, or permit are attached.
3. You shall have an authorized representative of the insurance company sign the completed endorsement forms and note his/her telephone number on them.
4. The name of the insurance company underwriting the coverage and its address shall be noted on the endorsement form.
5. The general description of agreement(s) and/or activity(ies) insured shall include reference to the activity and/or to either the specific YCH reference

number, contract number, lease number, permit number, or construction approval number.

6. The coverages and limits for each type of insurance are specified on the attached insurance requirements sheet. When coverage is on a scheduled basis, then a separate sheet is to be attached to the endorsement listing such scheduled locations, vehicles, etc.
7. Endorsements to excess or umbrella policies will be required when primary insurance is insufficient to comply with YCH's requirements.
8. Completed endorsement(s), including cancellation notices, and questions relating to the required insurance are to be directed to:

**Housing Authority of the County of Yolo**

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NAME OF HOUSING AUTHORITY

**Janis Holt, Resource Administrator**

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NAME OF INDIVIDUAL

**147 West Main Street**

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STREET ADDRESS

**Woodland, CA 95695**

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CITY, STATE, ZIP

9. Improperly completed endorsements will be returned to your insured for correction by an authorized representative of the insurance company.
10. Delay in submitting properly completed endorsement forms may delay your insured's intended occupancy or operation under the agreement with YCH, **or may result in your insured's bid being rejected for non-compliance.**



## UNDERWRITER/BROKER CERTIFICATION

Entity: Housing Authority of the County of Yolo

Entity project identification: \_\_\_\_\_

Entity providing offer/contractual services: \_\_\_\_\_

Insurer(s): \_\_\_\_\_

Best rating(s): \_\_\_\_\_

Name and title of underwriter, broker, or agent completing certification: \_\_\_\_\_

\_\_\_\_\_

I, the undersigned insurance underwriter, insurance broker, or agent do hereby certify that I have examined the insurance specifications prepared by the Housing Authority of the County of Yolo (YCH) for the above referenced project and have attached herewith certificates of insurance and all endorsements specified in the insurance specifications on equivalent forms provided by the insurance carrier.

I further certify that the coverages provided to the Contractor and described in the certificates of insurance conform in all respects to the requirements set forth in the insurance specifications, including, but not limited to the following considerations:

1. The scope of insurance is at least as broad as the minimum requirements identified in the insurance specifications;
2. The minimum occurrence limits and aggregate limits of insurance are consistent with those set forth in the insurance specifications;
3. All deductibles and/or self-insured retentions have been declared;
4. All required endorsements identified in the insurance specifications have been provided and copies have been attached to the appropriate certificate of insurance;
5. All policies of insurance have been placed with insurers with a current rating from the A.M. Best Company of not less than A:VII;
6. All endorsements have been signed by a person authorized by the insurer to bind coverage on its behalf.

If the coverages provided to the Contractor do not conform in all respects to the requirements set forth in the insurance specifications, an explanation of each and every variance from the specifications and an evaluation of the relative risk exposures and protections to YCH and the Contractor are attached.

I understand that the Yolo County Housing will not authorize the Contractor to initiate work on behalf of Yolo County Housing until this certification has been fully executed and returned to Yolo County Housing.

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Signature

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Date

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Name of Company

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Business Address

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Business Phone Number

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

(c) **Withholding for unpaid wages and liquidated damages.**

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

**7. Subcontracts**

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

**8. Non-Federal Prevailing Wage Rates**

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