

REQUEST FOR PROPOSALS/BIDS

EXTERIOR PAINTING, SEALING and STUCCO REPAIR ADD ALTERNATE – GUTTER REPAIR and/or REPLACEMENT

MCKINLEY PARK
2165 BUENA VISTA AVE., ALAMEDA CA

Proposal Requirements, Contract Forms,
General Requirements and Scope of Work



Patrick Russi
Recreation Manager
Recreation and Park Department, City of Alameda, California
2226 Santa Clara Avenue
Alameda, CA 94501
(510)747-7550
prussi@alamedaca.gov

<http://www.alamedaca.gov/recreation/park-projects>

TABLE OF CONTENTS

INTRODUCTORY INFORMATION

Cover Letter
Rating and Evaluation Procedure

PROPOSAL REQUIREMENTS

HUD Form 5369 Instructions to Bidders
Documents to be returned with Proposal
HUD Form 5369A Representations, Certifications and other Statements of Bidders
Profile of Firm
Statement of Qualifications Form
Licensed Subcontractors List
Insurance Information Form
Safety Experience Form
References Form
Non-collusion Affidavit

CONTRACT FORMS

Sample Boiler Plate Contractor Agreement
HUD Form 5370 EZ General Contract Conditions for Small Construction/Development Contracts
Federal AA/EEO Provision
Sample Construction Performance Bond
Sample Construction Labor and Material Payment Bond
Addenda

GENERAL CONDITIONS

Davis-Bacon General Wage Decision Number: CA140029 03/07/2014 CA29 (See Appendix A)
Federal Labor Standards Provision Form (HUD-4010)
U.S. Department of Labor Payroll Reporting Form (WH-347) (See Appendix B)

SPECIFICATIONS

Scope of Work

APPENDICES

Appendix A- Davis-Bacon General Wage Decision Number: CA140029 03/07/2014 CA29
Appendix B- U.S. Department of Labor Payroll Reporting Form
Appendix C- HUD Form 2530 Previous Participation Certification
Appendix D- Section 3 Requirements
Appendix E- Site Detail

END OF DOCUMENT



Alameda Recreation and Park Department
2226 Santa Clara Avenue
Alameda, CA 94501
510-747-7529

April 18, 2014

Dear Contractor:

The Recreation and Park Department of the City of Alameda (ARPD) is requesting proposals/bids from licensed contractors for painting and sealing the exterior of the recreation building, and repair the stucco on the exterior of the building, and as an add – alternate the repair and/or replacement of the gutters located at 2165 Buena Vista Ave., Alameda, Ca., McKinley Park.

This Request for Proposals for (RFP) is intended to award a contract for this work. Minority-owned, women-owned, emerging small businesses and disabled veterans businesses are encouraged to apply.

PROJECTED START DATE:

MANDATORY PRE-PROPOSAL CONFERENCE:

Thursday, May 1, 2014 at 1:00 p.m., in front of 2165 Buena Vista Ave., Alameda, Ca. Please do not disturb programs that may be occurring. There is no visitor parking available on the site.

QUESTION AND ANSWER DEADLINE:

Thursday, May 8, 2014 at 4:00 p.m. Please email all questions to prussi@alamedaca.gov.

PROPOSAL DEADLINE:

Wednesday, May 14, 2014 at 4:00 p.m., delivered to the office of the ARPD located at **2226 Santa Clara Avenue, Alameda, CA, 94501.**

PROPOSAL FORMAT

Proposals must be sealed and marked "Sealed Proposal – Do Not Open." If you mail your proposal, it will be date and time stamped when ARPD mail is generally opened. If hand-delivered or sent by courier, be sure that the sealed envelope is date- and time-stamped by the ARPD Office staff.

MANDATORY PRE-PROPOSAL CONFERENCE AND SITE VISIT

Contractors will have the opportunity to participate in a Pre-Proposal Conference and Site Visit at the advertised date and time and location.

Attendance at this conference is mandatory. All proposers are expected to be familiar with the project, federal, state and local requirements and specifications and to submit bids that are informed and accurate. Proposals submitted by Contractors who have not attended the mandatory pre-proposal conference and site visit will be rejected.

Proposer must be actively licensed as a Class B Contractor by the California State Licensing Board for a minimum of (5) five consecutive years. Proposals submitted by Contractors who do not meet the minimum requirement for licensing will be rejected.

QUESTION AND ANSWER DEADLINE

At ARPD's discretion, no questions will be accepted after the advertised date and time.

PROPOSAL DEADLINE

Proposals shall be delivered to the ARPD no later than the advertised date and time and location. No award will be made on this date.

PROPOSAL DOCUMENTS

The proposal documents may be downloaded from the City of Alameda's website under "Recreation", <http://www.alamedaca.gov/recreation/park-projects>. If you need assistance with downloading the proposal documents, please contact Susie Brown, Office Assistant, at (510) 747-7576.

WAGE RATES

Davis-Bacon wage rates in effect as of March 7, 2014, apply to all work being performed. The current Davis-Bacon wage rates information dated March 7, 2014 (General Decision Number CA140029) are included in this RFP; however, the rates may be subject to change and will not be locked in until the contract is awarded. Certified Payroll forms must be submitted on a weekly basis prior to issuance of progress payments.

CONTRACT AWARD

ARPD will analyze all proposals and may interview proposers who meet the requirements as set forth in this RFP. The top ranked proposal will be submitted to the Director for approval.

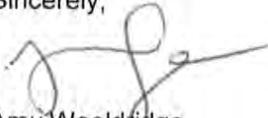
As soon as the contract is awarded and all required documentation is received (e.g., insurance certificate and additional insured endorsement, copy of business license, payment and performance bonds or letter of credit), a Notice to Proceed will be issued for work to begin within five (5) calendar days. All work must be completed as stated per Agreement, and not to exceed 15 calendar days.

ACCEPTANCE OR REJECTION OF PROPOSALS

ARPD reserves the right to reject any and all proposals, to waive informalities in any proposal received and to re-solicit proposals in the event no tendered bids are found acceptable. Each proposer, by tendering a proposal, automatically agrees to hold harmless ARPD, its elected and appointed governing bodies, its employees and any others involved in the preparation of this document, review of the bids and award of the contract. Bid protests should be made in writing in accordance with the document entitled "Bid Protests or Appeals."

If you have any questions, please email them to Patrick Russi, Recreation Manager, at prussi@alamedaca.gov. We look forward to receiving your bid for this project.

Sincerely,



Amy Wooldridge
Director



END OF DOCUMENT

RATING AND EVALUATION PROCEDURE

100 POINT EVALUATION

RECREATION AND PARK DEPARTMENT OF THE CITY OF ALAMEDA (ARPD) EXTERIOR SEALING, PAINTING and STUCCO REPAIR ADD ALTERNATE - GUTTERS 2165 BUENA VISTA AVENUE, ALAMEDA CA

1. Statement of Qualifications – The ARPD will evaluate Contractor's specific experience including years and type of experience. (20 points)
2. Staffing – Capacity of proposer to provide adequate professional staffing. Contractor must have a minimum of five (5) years' experience performing activities related to the Scope of Work. (15 points)
3. References – The ARPD will interview references to determine types of services performed and other information. (15 points)
4. Cost – The ARPD will evaluate this component based on cost provided by firm submitting proposal. (20 points)
5. Exterior painting, sealing and stucco repair experience – ARPD will evaluate Contractor's specific experience in these areas of expertise. (30 points)

END OF DOCUMENT

Proposal Requirements

PROPOSAL REQUIREMENTS

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

**Instructions to Bidders for Contracts
Public and Indian Housing Programs**

Instructions to Bidders for Contracts

Public and Indian Housing Programs

Table of Contents

Clause	Page
1. Bid Preparation and Submission	1
2. Explanations and Interpretations to Prospective Bidders	1
3. Amendments to Invitations for Bids	1
4. Responsibility of Prospective Contractor	1
5. Late Submissions, Modifications, and Withdrawal of Bids	1
6. Bid Opening	2
7. Service of Protest	2
8. Contract Award	2
9. Bid Guarantee	3
10. Assurance of Completion	3
11. Preconstruction Conference	3
12. Indian Preference Requirements	3

1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the General Conditions of the Contract for Construction). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

I Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

U. If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

3. Amendments to Invitations for Bids

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

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

I Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

- (1) Integrity;
- (2) Compliance with public policy;
- (3) Record of past performance; and
- (4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid 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 PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(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 observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

I The only acceptable evidence to establish the date of mailing of a late bid, 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 bid, 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, bidders should request the postal clerk to place a hand cancellation bull’s-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

(e) The only acceptable evidence to establish the date of mailing of a late bid, 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 I of this provision, excluding postmarks of the Canadian Postal Service. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull’s eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

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

(g) Bids 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 the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

7. Service of Protest

(a) Definitions. As used in this provision:

“Interested party” means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

“Protest” means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

U. Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from

**Recreation and Park of the City of Alameda
Patrick Russi, Recreation Manager
2226 Santa Clara Avenue, Alameda CA 94501**

I All protests shall be resolved in accordance with the PHA’s/ IHA’s protest policy and procedures, copies of which are maintained at the PHA/IHA.

8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA’s/IHA’s available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA’s/IHA’s available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA’s/IHA’s available funding. If upon the application of all deductibles, no bid is within the PHA’s/IHA’s available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

I In the case of tie low bids, award shall be made in accordance with the PHA’s/IHA’s written policy and procedures.

(d) The PHA/IHA may reject any and all bids, accept other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA’s/IHA’s written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

(f) The PHA/IHA may reject any bid as non responsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

9. Bid Guarantee (applicable to construction and equipment contracts exceeding \$25,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

10. Assurance of Completion

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be :

(1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

(2) separate performance and payment bonds, each for 50 percent or more of the contract price;

(3) a 20 percent cash escrow;

(4) a 25 percent irrevocable letter of credit; or,

(5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website <http://www.fms.treas.gov/c570/index.html>, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

l Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

11. Preconstruction Conference (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

12. Indian Preference Requirements (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act; and Indian "tribe" to mean any Indian tribe, band, group, pueblo, or community including Native villages and Native groups (including

corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

I If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph I above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is –

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.1751 higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit

sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement representing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to be used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

The IHA [] does [x] does not maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.

END OF DOCUMENT

DOCUMENTS TO BE RETURNED WITH PROPOSAL

REQUEST FOR PROPOSALS (RFP)
EXTERIOR PAINTING, SEALING AND STUCCO REPAIR
Add Alternate – Gutter Repair / Replacement
MCKINLEY PARK
2165 BUENA VISTA AVENUE, ALAMEDA CA

Please mark all documents you have enclosed in your proposal

1. PROPOSAL TO INCLUDE:
(Contractor Provided Forms)
Statement of Qualifications
Staffing Capacity
References
Exterior Painting Cost-
Exterior painting, sealing and stucco repair experience
Add Alternate – Gutter replacement / repair on Recreation building
2. COMPLETED REPRESENTATIONS, CERTIFICATIONS, and OTHER STATEMENTS OF BIDDERS FORM;
3. COMPLETED DESIGNATION OF LICENSED SUBCONTRACTORS FORM;
4. PROFILE OF FIRM FORM;
5. INSURANCE INFORMATION FORM;
6. SAFETY EXPERIENCE FORM;
7. REFERENCES FORM;
8. STATEMENT OF QUALIFICATIONS FORM;
9. NON-COLLUSION AFFIDAVIT; and
10. COMPLETED SECTION 3 FORM

END OF DOCUMENT

U.S. Department of Housing and Urban Development

Office of Public and
Indian Housing

**Representations, Certifications, and
Other Statements of Bidders
Public and Indian Housing Programs**

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

Table of Contents

Clause	Page
1. Certificate of Independent Price Determination	1
2. Contingent Fee Representation and Agreement	1
3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	1
4. Organizational Conflicts of Interest Certification	2
5. Bidder's Certification of Eligibility	2
6. Minimum Bid Acceptance Period	2
7. Small, Minority, Women-Owned Business Concern Representation	2
8. Indian-Owned Economic Enterprise and Indian Organization Representation	2
9. Certification of Eligibility under the Davis-Bacon Act	3
10. Certification of Non-segregated Facilities	3
11. Clean Air and Water Certification	3
12. Previous Participation Certificate	3
13. Bidder's Signature	3

1. Certificate of Independent Price Determination

(a) The bidder certifies that—

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

(b) Each signature on the bid is considered to be a certification by the signatory that the signatory—

(1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

_____ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a) (1) through (a) (3) above.

If the bidder deletes or modifies subparagraph (a) 2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[X] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (Applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid non responsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [] is, [] is not included with the bid.

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

(b) The bidder represents and certifies as part of its bid that, except for full-time bona fide employees working solely for the bidder, the bidder:

(1) [] has, [] has not employed or retained any person or company to solicit or obtain this contract; and

(2) [] has, [] has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

If the answer to either (a) (1) or (a) (2) above is affirmative, the bidder shall make an immediate and full written disclosure to the PHA/IHA Contracting Officer.

(d) Any misrepresentation by the bidder shall give the PHA/IHA the right to (1) terminate the contract; (2) at its discretion, deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

I Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
 - (b) Impair the bidder's objectivity in performing the contract work.
- [] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

I The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph I above or (2) any longer acceptance period stated in paragraph (d) above.

7. Small, Minority, Women-Owned Business Concern Representation

The bidder represents and certifies as part of its bid/ offer that it –

(a) [] is, [] is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) [] is, [] is not a women-owned business enterprise. "Women-owned business enterprise," as used in this provision, means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

I [] is, [] is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- [] Black Americans
- [] Asian Pacific Americans
- [] Hispanic Americans
- [] Asian Indian Americans
- [] Native Americans
- [] Hasidic Jewish Americans

8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [] is, [] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [] is, [] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or community including Native villages and Native groups

(including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

9. Certification of Eligibility under the Davis-Bacon Act (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29CFR 5.12(a) (1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

I The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

10. Certification of Non segregated Facilities (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

I By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed

\$10,000 and are not exempt from the requirements of the Equal

Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Non segregated Facilities

A Certification of Non segregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

11. Clean Air and Water Certification (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [] is, [] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

I The bidder will include a certification substantially the same as this certification, including this paragraph I, in every nonexempt subcontract.

12. Previous Participation Certificate (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid non responsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" [] is, [] is not included with the bid.

13. Bidder's Signature

The bidder hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

(Type or Printed Name)

(Signature and Date)

(Title)

(Company Address)

PROFILE OF FIRM

(1) Prime Subcontractor (This form must be completed by and for each).

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

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

(4) Please attach a brief biography/resume of the company, including the following information:

(5) Identify Principals/Partners in Firm (submit hereunder a brief professional resume for each:

NAME	TITLE	% OF OWNERSHIP

(6) Identify the individual(s) that will act as project manager(s) and any other supervisory personnel that will work on project; please submit hereunder a brief resume for each. (Do not duplicate any resumes required above):

NAME	TITLE

(7) Bidder Diversity Statement: You must circle all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

Caucasian American (Male)
_____ %

Resident- (RBE), 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 Islander-American _____ %

Woman-Owned (MBE) _____ % Woman-Owned (Caucasian) _____ % Other (Specify) _____ %

WMBE Certification Number: _____

Certified by: _____

(NOTE #2: THIS IS ONE OF TWO PAGES – BOTH PAGES MUST BE COMPLETED)

- (8) 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 California-or any local government agency within or without the State of California? Yes No If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (9) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the City of Alameda? Yes No If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (10) Verification Statement: The undersigned bidder hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the City of Alameda discovers that any information entered herein is false, that shall entitle the City of Alameda to not consider nor make award or to cancel any award with the undersigned party.

Signature

Date

Printed Name

Company

**END OF DOCUMENT
STATEMENT OF QUALIFICATIONS**

This statement must be fully completed and submitted with the proposal.

All questions must be answered, with responses clear and complete. Attach additional pages if needed.

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

Submitted to: Alameda Recreation & Park Department of the City of Alameda
Address: 2226 Santa Clara Avenue, Alameda CA 94501

Submitted by: _____

Name: _____

Address: _____

Name of Project: _____

Type of work/Location: _____

License Required: _____

A. Organization

- How many years has your company been in business as a Contractor in the State of California for the specified type of work?
- How many years has your company been in business under its present business name in the State of California?
- If your company a corporation, answer the following:
 1. Date of incorporation
 2. State of incorporation
 3. President's name:
 4. Applicable business and trade licenses

- If your company is a partnership, answer the following:

5. Date of licensing

6. Type of partnership

7. Name(s) of general partner(s):

- If your company is individually owned, answer the following:

1. Date of licensing

2. Name of owner

- How many employees does your company currently employ?

- How many Supervisors and Foreman does your company employ?

B. Licensing

- List jurisdictions and trade categories in which your company is legally qualified to do business and indicate registration or license numbers, if applicable.

C. Experience:

- List all Claims and Suits within the last five (5) years. (If the answers to any of the questions below are yes, please attach details.)

- Has your company ever failed to complete any work awarded to it?

[] Yes [] No

- If yes, what was the name of the contract and what was the reason for default?

- Has your company ever refused to sign a contract after award of the proposal?
 Yes No
- If yes, what was the name of the contract and reason for refusal?
- Has your company or subsidiaries or principals ever been debarred from government contracts?
 Yes No
- If yes, please identify party and state the reason.
- Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your company or its officers? If so, please list.
- Has your company filed any law suits or requested arbitration with regards to construction contracts within the last five years? If so, please list.

D. Bonding and Financial Information:

- Surety:
- Name of bonding company:
- Name and address of agent:
- Upon request, will you complete a detailed financial statement and furnish any other information required by the Alameda Recreation and Park Department?
 Yes No

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information request by the Alameda Recreation and Park Department, verifying the declarations included in this Statement of Qualifications.

By: _____ Date: _____

Title: _____

END OF DOCUMENT

INSURANCE INFORMATION

WORKER'S COMPENSATION:

CARRIER: _____
ADDRESS: _____
PHONE: _____
POLICY NUMBER: _____

GENERAL LIABILITY:

CARRIER: _____
ADDRESS: _____
PHONE: _____
POLICY NUMBER: _____
POLICY LIMITS: \$ _____

AUTOMOTIVE LIABILITY:

CARRIER: _____
ADDRESS: _____
PHONE: _____
POLICY NUMBER: _____
POLICY LIMITS: \$ _____

END OF DOCUMENT

SAFETY EXPERIENCE

The following statements as to safety experience of Proposer are submitted with proposal as part thereof, and the truthfulness and accuracy of information are guaranteed by Proposer.

1. List your firm's interstate Experience Modification Rate for the last three years.

2011 ____ 2012 ____ 2013 ____

2. Use your last year's Cal/OSHA 200 log to fill in the following number of injuries and illnesses:

- a. Number of lost workday cases _____
- b. Number of medical treatment cases _____
- c. Number of fatalities _____

3. Total of all employee hours worked last year _____

I CERTIFY, UNDER PENALTY OF PERJURY, THAT THE FOREGOING INFORMATION IS CURRENT AND ACCURATE AND I AUTHORIZE THE ALAMEDA RECREATION AND PARK DEPARTMENT OF THE CITY OF ALAMEDA, CALIFORNIA, AND ITS AGENTS AND REPRESENTATIVES TO OBTAIN A CREDIT REPORT AND/OR VERIFY ANY OF THE ABOVE INFORMATION.

SIGNATURE

DATE

END OF DOCUMENT

REFERENCES FORM

All persons submitting a proposal must submit at least three references for projects of similar scope. Please provide name of company, agency or person for whom the service was performed, the contact person, address, phone number and e mail address:

1. Company Name: _____

Description of Facility: _____

Contact Person: _____

Address: _____

Phone Number: _____

E-mail Address: _____

2. Company Name: _____

Description of Facility: _____

Contact Person: _____

Address: _____

Phone Number: _____

E-mail Address: _____

3. Company Name: _____

Description of Facility: _____

Contact Person: _____

Address: _____

Phone Number: _____

E-mail Address: _____

END OF DOCUMENT

Public Contract Code § 7106

NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH PROPOSAL

_____ , being first duly sworn, deposes and says that he or she is

(Name of Principal of Bidder

_____ of _____ , the party

making (Office of Affiant)

(Name of Bidder)

the foregoing bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding, and that the bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of Bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the Alameda Recreation and Park Department of the City of Alameda, Alameda, California, a political subdivision of the State of California, or anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that Bidder has not, directly or indirectly, submitted its bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed under penalty of perjury under the laws of the State of California:

(Name of Bidder)

(Signature of Principal)

State of California

County of _____ (add proper Notary Acknowledgement)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____,

2014, by _____

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal) Signature _____

(If Bidder is a partnership or a joint venture, this affidavit must be signed and sworn to by every member of the partnership or venture.)

(If Bidder's affidavit on this form is made outside the State of California, the official position of the person taking such affidavit shall be certified according to law.)

END OF DOCUMENT

CONTRACT FORMS

SAMPLE BOILERPLATE CONTRACTOR AGREEMENT

This contract for construction ("the Contract") is made and entered into this ___ day of _____, 2014, by and between _____, a California corporation residing at or having its offices and principal place of business at _____, CA 9_____, California State Contractor's License No. _____ ("Contractor") and the City of Alameda, a municipal corporation ("Owner").

1. GENERAL PROVISIONS

A. Purpose of Contract. Owner owns the land and the building(s) popularly known as _____, Address_____, Alameda, California ("the Property"). Under this Agreement, Contractor agrees to repair windows on the Property as per the Contract documents.

B. Contract Price. The Contractor shall be paid the amount of: (write out price) dollars (\$____.00) for the performance of the Contract ("the Contract Price"). The Contract Price is determined as that bid made by the Contractor dated _____, 2014 to Owner and accepted by Owner on _____, 2014 ("the Contractor's Bid"). The Contract Price shall be paid to the Contractor pursuant to the conditions set forth in Section 1.F. entitled "Method of Payment".

C. Statement of Work. The Contractor shall furnish all labor, materials, supplies, machinery, equipment, permits and services and shall perform and complete in a satisfactory and workmanlike manner any rehabilitation and/or remodeling work on the Property required by the Owner as described in the Contract documents ("the Work").

D. Time Commencement and Completion.

(1) The Contractor shall commence the onsite construction within 5 working days after receiving notice from the Owner to commence work, and shall diligently prosecute the work to completion before expiration of fifteen (15) consecutive working days from the receipt of notification. On site construction shall begin on or about _____, 2014 and be completed by _____, 2014. Lead clearance is to be completed by Owner, unless a second clearance test is needed, for which Contractor will be responsible.

(2) In agreeing to complete the Work within the Contract time, Contractor has taken into consideration and made allowance for ordinary delays and hindrances incident to such work, whether

growing out of delays of common carriers, delays in securing materials or workers, changes, omissions, alterations, or otherwise.

- (3) Excusable delays shall consist of: strikes, lockouts, embargoes, fire, unavoidable casualties, unusual delays in transportation, national emergency, extraordinary weather conditions, labor and material shortages which are beyond the reasonable control of Contractor, or by any other cause beyond the reasonable control of Contractor; provided that the Contractor shall notify the Owner and the Owner in writing not later than two (2) days after the initial occurrence of any excusable cause of delay.
- (4) If the Contractor is unable to complete any portion of the Work due to excusable delay, the completion date may be extended, provided the extension time period is agreed to, in advance, in writing by both the Contractor and the Owner.
- (5) The Contractor shall pay the Owner Liquidated Damages for inexcusable delays in completing the Work. Liquidated Damages shall accrue at the rate of \$400.00 per day for each day in which full and satisfactory completion has exceeded the Time of Completion, or in the event of termination under Section 1.D. of this Contract, any subsequent contractor(s) completes the Work. The aggregated amount of liquidated damages shall be present and due to the Owner from the Contractor and any Surety as the sole and exclusive remedy of the Owner for the delays in the Time of Completion. Nothing in this Article is intended to affect any other claims or rights of action the Owner may have against Contractor for damages other than those caused by delay in Time of Completion.

The Owner may deduct any amount of Liquidated Damages due the Owner from the Contract Sum. However, if the Owner chooses not to deduct any Liquidated Damages due from the Contract Sum, it shall not be construed as a waiver of Owner's rights under the terms of the Contract Documents.

- (6) Time is of the essence in this Contract.

E. Contract Documents. This Contract shall consist of the general terms, conditions and references contained herein and the following documents:

- (1) Scope of work write-ups; performance specifications; any applicable plans and drawing prepared or furnished by the Owner;

and

(2) Schedule of Contractor Payments, if any; and

(3) Required Notices; and

(4) All modifications and addenda included in or attached to these documents prior to the execution of this Contract.

F. Method of Payment.

(1) Immediately prior to the commencement of work, the Owner may pay, or cause to be paid, to the Contractor a deposit not to exceed 10 percent of the contract price or \$1,000 whichever is less. This deposit shall be paid only if Contractor demonstrates to the satisfaction of the Owner that such deposit is needed by the Contractor in order to purchase materials, which are to be used to commence the work under this Contract. Any such deposit shall be refundable in full in the event of job cancellation for any reason. The punch list must be agreed upon and completed before 10 percent of the contract price is released for payment.

(2) Upon application for payment submitted by the Contractor, and approved the Owner's inspectors, and based on job progress, the Owner shall make, or cause to be made, progress payments to the Contractor. Said payments shall at no time represent more than ninety-five percent (95%) of the value of the work performed.

(3) Final payment of any retentions made by the Owner, or made at the Owner's direction, to the Contractor for the performance of this Contract, except sums retained for cause, shall be made thirty (30) days after substantial completion if: 1) Contractor has provided Owner with the warranties and guarantees and as-built drawings, plans and specifications required by this Contract; and 2) no claims against the Contractor have been filed with the Owner or against the Property prior to the expiration of the thirty days. Until such claims have been satisfied or released, sufficient funds shall be withheld from the monies due the Contractor to satisfy such claims.

G. Changes. No changes, additions, or deletions to the specifications for the work to be completed under this Contract shall be made without the prior written consent of Owner and Contractor. The Contract Price may be increased by no more than 10 percent under the following conditions: 1) additional repairs are needed which the Owner determines the general contractor reasonably could not have anticipated; and 2) which result in a change of the scope of work necessitating a change in the plans

and specifications; and 3) the general contractor demonstrates, to the satisfaction of the Owner, that the additional funds are necessary to ensure that the Property will meet rehabilitation standards upon completion of the work.

H. Conflict of Interest. The parties to this Contract state that no present or former member or officer of the Owner, and no employee of the Owner who formulates policy or influences decisions, had or will have any direct or indirect interest, during his or her tenure or for one year thereafter, in this Contract or in any proceeds or benefits arising from this Contract.

I. Termination.

(1) The Owner may, because of breach of the Contract by the Contractor, terminate this Contract at any time by a notice in writing to the Contractor. Such termination shall be effective in the manner and upon the date specified in said notice and shall be without prejudice to any claims, which the Owner may have against the Contractor. Upon receipt of such notice, the Contractor shall, unless the notice directs otherwise, immediately discontinue all work and the placing of all orders for materials, facilities and supplies in connection with the performance of this Contract and shall promptly proceed to cancel all existing orders and terminate all subcontracts insofar as such orders and/or subcontracts are chargeable to this Contract.

(2) Upon termination of this Contract for breach of the Contract by the Contractor, the Contract price shall be reduced by the amount of any and all claims which Owner may have against the Contractor for damages incurred by Owner as a result of the breach, including the cost to Owner to have the work remaining under the Contract completed by another Contractor. Such damage shall also include any reasonable attorney's fees and other costs incurred by Owner in effecting the termination of the Contract or completion of the performance of the Contract work. Any Contract funds remaining, including amounts retained from progress payments, or other amounts otherwise earned by the Contractor but not yet paid by Owner on the date of the termination, may be applied by Owner to the damages which it incurred as a result of the Contractor's breach. The balance remaining, if any, after full completion of the Contract work shall be payable to the Contractor. If Contract funds as indicated above are insufficient, the Contractor shall be liable for any unpaid balance.

J. Written Notice. Written notice shall be deemed to have been duly served if delivered in person or sent by registered or certified mail to:

(1) Contractor at the following address:

Attn:

(2) Owner at the Property street address given above,
City of Alameda
Recreation & Parks Department
2226 Santa Clara Ave.
Alameda, CA 94501
Attn: Patrick Russi, Recreation Manager

2. FEDERAL/ STATE PREVAILING WAGES

The Contractor is aware of the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq. and Section 2-67 of the Alameda Municipal Code (collectively, the "Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" projects. This Project is a "public work" project, as defined by the Prevailing Wage Laws, and Contractor shall fully comply with such Prevailing Wage Laws. Contractor's failure to comply with the Prevailing Wage Laws may constitute a default under the contract for performance of the Work which would entitle the City to rescind the contract or exercise other remedies as provided by law or the contract.

The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Contract from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages at the City's Recreation and Park Department, 2226 Santa Clara Avenue, Alameda. The Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. The Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

If this project is funded in whole or in part with Federal monies and subject to the provisions of the Davis-Bacon Act, the successful bidder shall pay not less than the wage rates determined by the Secretary of Labor of the United States. The Federal wage rates shall apply unless the State wage rates are higher, in which case Contractor shall pay the higher rate. The Federal Wage Rates applicable to the contract are those current within ten (10) days of the bid due date.

The Contractor and all subcontractors shall pay and shall cause to be paid each worker engaged in work on the Project not less than the general prevailing rate of *per diem* wages regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such workers. Contractor and any Subcontractor need to produce a completed HUD 4720 with all classifications.

The Contractor and all subcontractors shall pay and shall cause to be paid to each worker needed to execute the work on the Project travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with Labor Code § 1773.8.

Pursuant to Labor Code § 1775, the Contractor shall as a penalty to the City, forfeit Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of *per diem* wages, determined by the Director, for such craft or classification in which such worker is employed for any public work done under the Contract by the Contractor or by any Subcontractor under it. The amount of the penalty shall be determined by the Labor Commission. In addition, the difference between such prevailing rate of *per diem* wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate of *per diem* wage shall be paid to each worker by the Contractor.

Any worker employed to perform work on the Project whose work is not covered by any craft or classification listed in the general prevailing rate of *per diem* wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to the work on the Project to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.

For those crafts or job classifications requiring special prevailing wage determinations, please contact the project manager.

3. LABOR COMPLIANCE MONITORING; CERTIFID PAYROLL HUD-11 Each week require a WH347 or equivalent

A. Labor Compliance Monitoring. Pursuant to Section 1771.3 of the Labor Code and Subchapter 4.5 of Chapter 8 of Title 8 of the California Code of Regulations, this Project may be subject to labor compliance oversight by the Department of Industrial Relations, Division of Labor Standards Enforcement, Compliance Monitoring Unit (CMU). Contractor shall comply with all the labor compliance requirements under this Contract and applicable provisions of the California Labor Code and California Code of Regulations. In bidding on this Project, it shall be Contractor's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this Contract and applicable law in the Contract Price.

Contractor shall post, at each job site the notice required by Section 16451(d) of Title 8 of the California Code of Regulations. Template notices are available upon request to the City. District Office of the Division of Labor Standards Enforcement, 1515 Clay Street, Suite 801, Oakland, CA 94612

Contractor and each Subcontractor shall keep certified payroll records in accordance with Labor Code section 1776, and such records shall be furnished to the City on a weekly basis, and within ten (10) days of any separate request by the CMU. Payroll records shall be in the format prescribed by Section 16401 of Title 8 of the California Code of Regulations, with use of the current version of the Department of Industrial Relations Public Works Payroll Reporting Form (A-1-131) and Statement of Employer Payments (DLSE Form PW26).

Contractor and Subcontractor shall also submit electronic certified payroll reports to the CMU on a monthly basis, and within ten (10) days of any separate request by the CMU, via the Department of Industrial Relations' online payroll system called Labor Compliance Management (MyLCM). Agency shall contact Contractor with registration details for MyLCM, and Contractor, within three (3) days thereafter, shall register itself and any subcontractors in MyLCM. Contractor shall work with Agency staff and consultants to ensure full compliance with the CMU requirements and all other labor compliance requirements under this Contract and applicable labor law.

B. Certified Payroll. The following provisions apply to all contracts, whether or not subject to CMU oversight.

Contractor's attention is directed to California Labor Code Section 1776, which requires Contractor and any subcontractors to keep an accurate payroll record and which imposes inspection requirements and penalties for non-compliance. Contractor is responsible for the preparation of payrolls by all subcontractors. Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the Contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract, and shall certify the following:

That the payroll for each payroll period contains the name, social security number, and address of each employee, its correct classification, including applicable area and group code, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid, and that such information is correct and complete;

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

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

If the Contractor or a subcontractor does not work during the payroll period, a Statement of Non-Working Days must be submitted for each day not worked.

In the event of noncompliance with the requirements of such section after 10 days written notice specifying in what respects compliance is required, the CONTRACTOR shall forfeit as a penalty to the CITY, \$200.00 for each calendar Day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

4. LABOR

A. Hours. As provided in Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any Subcontractor on any subcontract under this Contract, upon the work or upon any part of the work contemplated by this Contract, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provision hereinabove set forth, work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon this public work provided that the employees' compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay

The Contractor shall pay to the City a penalty of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor, or by any Subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one (1) calendar week, in violation of the provisions of Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation for the workers so employed by Contractor is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half (1½) times the above specified rate of *per diem* wages, unless otherwise specified. Holidays shall be as defined in the collective bargaining agreement applicable to each particular craft, classification, or type of worker employed.

B. Safety. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public and to meet or exceed the safety standards outlined by CAL-OSHA. City reserves the right to issue restraints or cease and desist orders to Contractor when unsafe or harmful acts or conditions are observed or reported

relative to the performance of the work under this Agreement. City has no obligation to exercise this right on behalf of Contractor or any third party.

Contractor shall maintain the work sites free of hazards to persons and/or property resulting from its operations. Any hazardous condition noted by Contractor, which is not a result of its operations, shall immediately be reported to City.

Contractor shall submit to the City, in advance of excavation five feet or more in depth and an estimated expenditure in excess of twenty-five thousand dollars (\$25,000), a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations, and all costs therefor shall be included in the Contract Price. Nothing in this section shall be deemed to allow the use of a shoring, bracing, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose a tort liability on the Owner, any of its officers, officials, partners, employees, agents, consultants or volunteers. The Owner's review of the Contractor's excavation plan is only for general conformance to the Construction Safety Orders. Prior to commencing any excavation, the Contractor shall designate in writing to the Owner the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

C. Apprentices. Attention is directed to the provisions in sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor under him on contracts greater than \$30,000 or 20 working days. The Contractor and any Subcontractor under him shall comply with the requirements of Sections 1777.5 and 1777.6 in the employment of apprentices.

Section 1777.5 requires the Contractor or Subcontractor employing workers in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project, and which administers the apprenticeship program in that trade, for a certificate of approval, if they have not previously applied and are covered by the local apprenticeship standards.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if: (1) the Contractor employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions; or (2) if the Contractor is not a signatory to an apprenticeship fund and if the funds administrator is unable to accept Contractor' required contribution. The Contractor or Subcontractor shall pay a like amount to the California Apprenticeship Council.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

5. LABOR DISCRIMINATION

No discrimination shall be made in the employment of persons upon public works on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person. Contractor shall comply with the Americans with Disabilities Act. Contractor is subject to all the penalties imposed for a violation of the provisions of the Labor Code, and, in particular, Section 1735.

Contractor certifies and agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap (as defined in 41 C.F.R. Section 60-741, et. seq.), in accordance with requirement of state or federal law. Contractor shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap in accordance with requirements of state and federal law. Such shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation.

A. Selection for training, including interns and apprentices.

- (1) Contractor agrees to post in conspicuous places in each of Contractor's facilities providing services hereunder, available and open to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (2) Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirements of state and federal law.
- (3) Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of Contractor's commitments under this paragraph.

- (4) Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirement of state and federal law.
- (5) In accordance with applicable state and federal law, Contractor shall allow duly authorized county, state and federal representatives access to its employment records during regular business hours in order to verify compliance with the anti-discrimination provisions of this paragraph. Contractor shall provide such other information and records as such representatives may require in order to verify compliance with the anti-discrimination provisions of this paragraph.
- (6) If the City finds that any of the provisions of this paragraph have been violated, the same shall constitute a material breach of Agreement upon which City may determine to cancel, terminate, or suspend this Agreement. City reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated. In addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated state and federal anti-discrimination laws shall constitute a finding by City that Contractor has violated the anti-discrimination provisions of this Agreement.
- (7) The parties agree that in the event Contractor violates any of the anti-discrimination provisions of this paragraph, City shall be entitled, at its option, to the sum of \$500.00 pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Agreement.
- (8) Contractor hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), all requirements imposed by the applicable regulations (45 C.F.R.), and all guidelines and interpretations issued pursuant thereto, to the end that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of Contractor receiving Federal Financial Assistance. In addition, Contractor shall comply with the Uniform Federal Accessibility Standards, and Contractor, Engineer, or Architect

responsible for any design, construction or alteration shall certify compliance with those Standards.

(9) Contractor's attention is directed to laws, including but not limited to:

(a) Civil Rights/Equal Opportunity

i. Civil Rights Act of 1964. Under Title VII of the Civil Rights Act of 1964, no person shall, on the grounds of race, sex, religion, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

ii. Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

(b) Employment And Contracting Opportunities

The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development Department and 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 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of the Housing and Urban Development set forth in 24 Part C.F.R. 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

Contractor will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with the provisions of Section 3, the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, is a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 C.F.R. Part 135.

(c) Program Accessibility For Individuals With Disabilities

This Agreement is subject to laws and regulations concerning the rights of otherwise qualified individuals with handicaps for equal participation in, and benefit from federally assisted programs and activities including but not limited to:

- i. Americans with Disabilities Act of 1990 (ADA) (28 C.F.R. 35). Title II, Subpart A of the Americans with Disabilities Act of 1990 applies to all publicly funded activities and programs. Contractor shall also comply with the public accommodations requirements of Title III of the ADA, as applicable.
- ii. Nondiscrimination on the Basis of Handicap (24 C.F.R.8). These regulations, which implement Section 504 of the Rehabilitation Act of 1973, as amended, and as cited in Section 109 of the Housing and Community Development Act, apply to all federally assisted activities and programs and are implemented through the regulations at 24 C.F.R. 8.
- iii. Architectural Barrier Act of 1968. Any building or facility, excluding privately owned residential structures, designed, constructed, or altered with federal funds, shall comply with the Uniform Federal Accessibility Standards, 1984 (41 C.F.R. 3) and the Handicapped Accessibility Requirements of the State of California Title 24. The Consultant, Engineer or Architect responsible for such design, construction or alteration shall certify compliance with the above standards.

In resolving any conflict between the accessibility standards cited in paragraphs i., ii. and iii. above, the more stringent standard shall apply.

6. REGISTRATION OF CONTRACTORS

Contractor shall be licensed in accordance with the provisions of Chapter 9, Division 3, of the Business and Professional Code of the State of California.

7. HOLD HARMLESS

Contractor shall indemnify, defend, and hold harmless City, its City Council, boards, commissions, officials, and employees ("Indemnitees") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("Claims"), arising from or in any manner connected to Contractor's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the

Contractor, Contractor shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Contractor. However, Contractor shall not be obligated to indemnify Indemnitees from Claims arising from the sole or active negligence or willful misconduct of Indemnitees.

8. INSURANCE

On or before the commencement of the terms of this Agreement, Contractor shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 8.A, B, C and D. Such certificates, which do not limit Contractor's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda by certified mail, "Attention: Risk Manager." It is agreed that Contractor shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

A. Coverage.

Contractor shall maintain the following insurance coverage:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury: \$1,000,000 each occurrence
 \$1,000,000 aggregate - all other

Property Damage \$1,000,000 each occurrence
 \$1,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

(3) Automotive:

Comprehensive automobile liability coverage in the following minimum limits:

Bodily injury: \$1,000,000 each occurrence
Property Damage: \$1,000,000 each occurrence
or
Combined Single Limit: \$1,000,000 each occurrence

- (4) Builders Risk: \$1,000,000
- (5) Pollution Legal Liability:
Coverage in the following limits.
Coverage limits: \$1,000,000 each occurrence

B. Subrogation Waiver. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Contractor or City 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 City by virtue of the payment of any loss under such insurance.

C. Failure To Secure. If Contractor at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Contractor's name or as an agent of the Contractor and shall be compensated by the Contractor for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. City, its City Council, boards and commissions, officers, and employees shall be named as an additional insured under all insurance coverages, except worker's compensation insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency Of Insurance. The insurance limits required by City are not represented as being sufficient to protect Contractor. Contractor is advised to consult Contractor's insurance broker to determine adequate coverage for Contractor.

9. BONDS

A. Faithful Performance. A bond in the amount of 100% of the total contract price is required to guarantee the faithful performance of this Contract.

B. Labor and Materials. A bond for labor and materials in the amount of 100% of the total contract price is required under this Contract.

Contractor shall furnish the following bonds from a bonding company acceptable to the City Attorney. Faithful Performance Bond and Labor and Material Bond are only required for work over \$25,000. Therefore, those estimates that are under \$25,000 will not need to budget for the bond premiums and those estimates over \$25,000 will need to be sure to budget for the bond premiums.

The insurance limits required by City are not represented as being sufficient to protect Contractor. Contractor is advised to consult Contractor's insurance broker to determine adequate coverage for Contractor.

10. PERMITS AND TAXES

Obtain all permits and licenses and pay all fees, taxes and other charges necessary for the completion and execution of the work to be performed.

11. GOVERNMENT REQUIREMENTS

Perform all work in conformity with applicable state and federal laws and regulations and local building codes whether or not covered by the Contract Documents.

12. MAINTENANCE OF THE SITE

A. At all times Contractor must keep the Project site free from accumulation of waste materials or rubbish caused by Contractor's operation. At the completion of the project, Contractor remove all waste materials, rubbish, tools, construction equipment and machinery and leave said Project site in a neat and clean condition.

B. Contractor must protect Owner's property, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of the Contract. Contractor must arrange for adequate coverings of all furniture, floors and other property. Contractor must cooperate with the Owner when necessary in the removal and replacement of rugs, coverings and furniture.

C. Contractor must replace damaged or broken glass. Upon replacement, Contractor remove all labels and wash and polish glass on both sides.

D. In addition to general broom cleaning, Contractor perform the following final cleaning for all trades at completion of the work:

- (1) remove marks, stains, fingerprints and other soil or dirt from painted, decorated and natural-finished woodwork; and
- (2) remove spots, mortar, plaster, soil and paint from ceramic tile, marble and other finish materials and wash or wipe clean; and
- (3) clean fixtures, cabinetwork and equipment, remove stains, paint,

dirt and dust and leave in undamaged, new condition; and

- (4) clean aluminum in accordance with recommendations of the manufacturer; and
- (5) clean resilient floors thoroughly and leave in a dry, shiny condition.

E. Contractor must not unreasonably inconvenience any adjacent residents of the Property during the period of the Contract.

13. LEAD-BASED PAINT SPECIFICATIONS

Work performed at the site shall comply with abatement/interim control procedures as outlined in the Technical Specifications available from the City for Contractor's review. An electronic copy can be provided to Contractor. Work specified in the Proposal and Specifications shall only be conducted by inspectors, supervisors and workers certified by the State of California Department of Public Health ("CDPH") as Lead Related Construction Workers or by those having completed a U.S. Department of Housing and Urban Development ("HUD") or Environmental Protection Agency ("EPA") approved training class. All firms performing work that disturbs painted surfaces shall be EPA certified firms. Certificates shall be provided to Owner prior to commencement of work. A CDPH form 8551 shall be provided to the State and Owner before commencement of site work.

A. Risk Assessment: Risk assessments may be required for housing constructed before 1978 and all identified lead based paint hazards must be mitigated, either through Interim Controls, or through Abatement, as outlined in the Lead Based Paint (LBP) Requirements, *presume LBP is present on all coated surfaces, no risk assessment was performed*:

B. Relocation Expense: Any expenses associated with the necessary relocation of occupants of affected properties shall be borne by the property owner. All relocation shall be in compliance with the City's *Relocation Assistance for Tenants Temporarily Affected By Residential Rehabilitation Program Activities* plan.

C. Waste Disposal: An EPA number shall be obtained for the disposal of lead waste generated during the rehabilitation work or waste shall be disposed of within the limitations of Alameda County's Household Hazardous Waste program.

D. Clearance Testing: Upon completion of the rehabilitation work, all areas where a painted or coated surfaces was disturbed shall be examined to determine that all work is complete and that no visible debris or settled dust-lead hazards exist in the dwelling or worksite. Work must then meet the following dust-wipe clearance standards for lead established by the before reoccupation occurs:

Floor: <40 µg¹/square foot
Window Sills: <250 µg/square foot
Exterior Surface: <400 µg/square foot

Soil Clearance Standards (for exterior work only)

Play Area Soil: <400 ppm²
Other Exposed Soil: <1000 ppm

¹ µg (microgram) = one millionth of a gram
² ppm (parts per million)

If re-cleaning and re-testing are required, these costs will be borne by the Contractor who performed the original work.

14. WARRANTIES

All materials and labor, including those of any subcontractor, shall be warranted for a period of one year from the date of the final Contractor payment provided for under Section 1.D., and Contractor shall provide Owner with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the Contract prior to the release of the final Contractor payment provided for under Section 1.D.

15. RECORDKEEPING

Maintain adequate invoices, receipts, job records and disbursement journals and such other records for the Project as may be usually kept in conjunction with projects of this type. Said records shall be available for inspection by the Owner, or its authorized representatives, upon reasonable advance notice, during the period of this Contract. Contractor shall retain said records and make them available for audit by the City of Alameda or its designee for a period of three years from the final payment under this Contract.

16. INSPECTIONS

A. Contractor must permit the Owner or its designee to examine and inspect the work under this Contract before and after completion.

B. Contractor must cooperate with the Owner in completing progress inspections and final inspection of the work.

17. PAYMENTS AND LIEN RELEASES

Contractor must promptly pay all persons furnishing materials, labor, or services and deliver to the Owner a complete release of liens for all labor, materials and services for which a lien could be filed under this Contract.

18. OWNER'S GENERAL OBLIGATIONS

Owner shall:

A. Not permit any changes, additions, or deletions to this Contract or the Contract Documents without prior written approval of the Contractor. Any change orders must be signed by the Contractor and the Owner.

B. Cooperate with the Contractor to facilitate the performance of work, including the removal and replacement of rugs, coverings and furniture as necessary.

C. Permit the Contractor to use, at no cost, existing utilities such as light, heat, power and water necessary to the carrying out and completion of the work.

D. The premises are to be vacant during the scheduled course of the rehabilitation work.

19. ACCEPTANCE/PROJECT CLOSEOUT

A. Joint Inspection. Upon receipt of a written notice from Contractor that the Project is ready for final inspection and acceptance, Contractor and Owner shall meet at the Project site. If deficiencies are noted, Contractor shall be responsible for correcting the items identified prior to the filing of a Notice of Completion.

B. Notice of Completion. When the Project has been completed in conformity with the Contract Documents and any Change Orders, and any deficiencies have been corrected to the satisfaction of the Owner, the Owner shall accept the Project by signing a Notice of Completion. This Notice of Completion shall be recorded by the Owner in the office of the county recorder of the county in which the project is located.

C. Drawings, Plans and Specifications. At the conclusion of construction, Contractor shall provide a complete set of as-built, original drawings, plans and specifications showing on the face thereof all changes and deviations made in the course of construction.

D. Final Progress Payment:

(1) When the Contractor submits notice to the Owner that the project is ready for final inspection, Contractor shall also submit a request for final payment containing all of the information required by Section 1.F. of this contract. In addition, Contractor shall at the same time submit from all subcontractors and persons supplying labor or materials to Contractor, a "Conditional Waiver and Release Upon Final Payment" in the form prescribed by Section 3262 of the Civil Code.

(2) Payment in accordance with the Request for Final Progress Payment shall be made for ninety-five percent (95%) of the value of the work (as determined by

the Owner) for which the Final Progress payment is requested thirty-five (35) days after completion of Final Inspection, provided that 1) the work for which payment is requested shall have actually been performed as per the Contract Documents to the satisfaction of the Owner; 2) all the releases required in Section 1. have been provided; and 3) Contractor has provided Owner with the warranties and guarantees and as-built drawings, plans and specifications required by this Contract.

E. Release of Retentions. Payment of all sums retained except those retained for cause shall be made to the Contractor not sooner than thirty five (35) days after substantial completion.

20. DISPUTE RESOLUTION

Any dispute which arises under this Contract, and which remains unresolved for fifteen (15) working days after the Owner has been informed in writing of the dispute by either party, shall be settled by arbitration in accordance with the construction industry arbitration rules for the county in which the Property is located. The decision of the arbitrator shall be final, conclusive and binding upon the parties hereto.

21. MISCELLANEOUS PROVISIONS

A. Entire Agreement. The Contract Documents contain the entire agreement between the parties. No variations, modifications, or changes hereto shall be binding upon any party hereto unless set forth in a written document duly executed by or on behalf of such party.

B. Waiver. No consent or waiver, express or implied, by either party to or of any breach or default by the other shall be deemed or construed to be consent or waiver to or of any other breach or default. Failure on the part of either party to complain of any act of the other party or to declare the other party in default, shall not constitute a waiver by such party of its rights hereunder.

C. Successors and Assigns. The provisions of this Contract bind both parties and their successors and assigns. Contractor shall not assign this Contract without written consent of the Owner and prior written notification to the Owner.

D. Governing Law. This Contract and obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of California.

22. URBAN RUNOFF MANAGEMENT

Contractor shall be required to comply with all aspects of the State Water Resources Control Board (State Water Board) Water Quality Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity (Permit) for all projects that involve construction on or disturbance of one acre or more of land or which are part of a larger common area of development.

The Contractor shall develop and implement erosion and sediment control to prevent pollution of storm drains. Such control includes but is not limited to:

The Contractor shall avoid creating excess dust when breaking asphalt or concrete and during excavation and grading. If water is used for dust control, contractor shall use as little as

necessary. Contractor shall take all steps necessary to keep wash water out of the streets, gutters and storm drains.

Use storm drain inlet protection devices such as sand bag barriers, filter fabric fences, block and gravel filters. (Block storm drain inlets prior to the start of the rainy season (October 15), in site de-watering activities and saw-cutting activities; shovel or vacuum saw-cut slurry and remove from the site).

Cover exposed piles of soil or construction material with plastic sheeting. All construction materials must be stored in containers.

Sweep and remove all materials from paved surfaces that drain to streets, gutters and storm drains prior to rain as well as at the end of the each work day. At the completion of the project, the street shall be washed and the wash water shall be collected and disposed of offsite in an appropriate location.

After breaking old pavement, Contractor shall remove all debris to avoid contact with rainfall or runoff.

Contractor shall maintain a clean work area by removing trash, litter, and debris at the end of each workday. Contractor shall also clean up any leaks, drips, and other spills as they occur

The objective is to ensure that the City and County of Alameda County-Wide Clean Water Program is adequately enforced. These controls should be implemented prior to the start of construction, up-graded as required, maintained during construction phases to provide adequate protection, and removed at the end of construction.

These recommendations are intended to be used in conjunction with the State's Best Management Practices Municipal and Construction Handbooks, local program guidance materials from municipalities, and any other appropriate documents on storm water quality controls for construction.

Failure to comply with this program will result in the issuance of noncompliance notices, citations, project stop orders or fines. The fine for noncompliance of the above program is two hundred and fifty dollars (\$250) per occurrence per day. The State under the Federal Clean Water Act can also impose a fine on the contractor, pursuant to Cal. Water Code § 13385.

23. COMPLIANCE WITH MARSH CRUST ORDINANCE

Contractor shall perform all excavation work in compliance with the City's Marsh Crust Ordinance as set forth at Section 13-56 of the Municipal Code. Prior to performing any excavation work, Contractor shall verify with the Building Official whether the excavation work is subject to the Marsh Crust Ordinance. Contractor shall apply for and obtain permits from Building Services on projects deemed to be subject to the Marsh Crust Ordinance.

24. COMPLIANCE WITH THE CITY'S INTEGRATED PEST MANAGEMENT POLICY

The Contractor shall follow the requirements of the City's Integrated Pest Management (IPM) Policy to ensure the City is in compliance with its Municipal Regional Stormwater NPDES Permit, Order No. R2-2009-0074, issued by the San Francisco Bay Regional Water Quality Control Board.

A. Contractor shall use the most current IPM technologies available to ensure the long-

term prevention or suppression of pest problems and to minimize negative impacts on the environment, non-target organisms, and human health for the control or management of pests in and around City buildings and facilities, parks and golf courses, urban landscape areas, rights-of-way, and other City properties.

- B. Contractor will consider the City IPM Policy's hierarchy of options or alternatives listed below, in the following order before recommending the use of or applying any pesticide on City property:
 - (1) No controls (e.g. tolerating the pest infestation, use of resistant plant varieties or allowing normal life cycle of weeds);
 - (2) Physical or mechanical controls (e.g. hand labor, mowing, exclusion);
 - (3) Cultural controls (e.g. mulching, disking, alternative vegetation) and good housekeeping (e.g. cleaning desk area);
 - (4) Biological controls (e.g., natural enemies or predators);
 - (5) Reduced-risk chemical controls (e.g., soaps or oils);
 - (6) Other chemical controls.
- C. Prior to applying chemical controls the contractor shall complete a checklist (attached) for the City's pre-approval that explains why a chemical control is necessary. For annual contracts that require regular application of chemical controls the contractor shall submit one checklist prior to the initiation of the project demonstrating that the hierarchy has been reviewed and no other options exist. Additionally, the contractor shall provide documentation to the City's project manager of the implementation of the IPM techniques hierarchy described in the City's IPM Policy.
- D. Contractor shall avoid the use of the following pesticides that threaten water quality, human health and the environment:
 - (1) Acute Toxicity Category I chemicals as identified by the Environmental Protection Agency (EPA);
 - (2) Organophosphate pesticides (e.g., those containing Diazinon, chlorpyrifos or malathion);
 - (3) Pyrethroids (bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, permethrin, and tralomethrin), carbamates (e.g., carbaryl), and fipronil;
 - (4) Copper-based pesticides unless their use is judicious, other approaches and techniques have been considered, and the threat of impact to water quality is prevented.
- E. Contractor shall sign the Contractor Verification Form (attached) indicating the intent to implement the City's IPM Policy, and return a signed copy to the City's project manager.

F. Contractor shall provide to the City's project manager an annual Report of all pesticide usage in support of City operations including pesticide name, active ingredient(s), target pest(s), the total amounts used and the reasons for any increase in use of any pesticide.

(1) Contractor shall provide a copy of any current IPM certifications(s) to the City's project manager prior to initiation of the service work.

25. PURCHASES OF MINED MATERIALS REQUIREMENT

Contractor shall ensure that all purchases of mined materials such as construction aggregate, sand and gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation identified on the AB3098 List per the Surface Mining and Reclamation Act of 1975 (SMARA).

Within five days of award of contract, Contractor shall submit a report to City which lists the intended suppliers for the above materials and demonstrates that the suppliers are in compliance with the SMARA requirements. The AB3098 List is maintained by the Department of Conservation's Office of Mine Reclamation (OMR) and can be viewed at: www.conservation.ca.gov/OMR/ab_3098_list/index.htm. Note that the list changes periodically and should be reviewed accordingly.

26. COMPLIANCE WITH LAW:

Consultant shall comply with all state or federal laws and regulations as well as all ordinances, rules and regulations enacted or issued by City (collectively, "Applicable Laws").

27. CONFLICT OF LAW:

A. This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.)

B. Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

28. ADVERTISEMENT:

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

29. WAIVER:

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

30. INTEGRATED CONTRACT:

This Agreement, including exhibits, represents the full and complete understanding of every kind or nature whatsoever between the parties hereto with regard to the Services, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any

modification of this Agreement will be effective only by written execution signed by both City and Consultant.

31. INSERTED PROVISIONS:

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

32. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

Draft

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

Name
Owner / President
Company Name

John A. Russo
City Manager

Name
Owner / Chief Financial Officer
or Vice President
Company Name

RECOMMENDED FOR APPROVAL:

Amy Wooldridge
Recreation & Parks Director

APPROVED AS TO FORM:

Janet Kern
City Attorney

END OF DOCUMENT

TABLE OF EXHIBITS

Exhibit A	_____(contractor) Proposal Specifications and Payment Schedule
Exhibit B	Required Noticing
Exhibit C	Section 3 Clause
Exhibit D	CDBG Required Contract Exhibits
Exhibit E	City of Alameda Contractor Verification Form – Integrated Pest Management (IPM) Policy
Exhibit F	Federal Labor Standards & Forms
Exhibit G	Federal Wage Decision

(Intentionally left blank)

CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

General Contract Conditions for Small Construction/Development Contracts

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing
OMB Approval No. 2577-0157 (exp. 01/31/2014)

Applicability. The following contract clauses are applicable and must be inserted into small construction/development contracts greater than \$2,000 but not more than \$100,000.

1. Definitions

Terms used in this form are the same as defined in form HUD-5370

2. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers. The only liens on the PHA's property shall be the Declaration of Trust or other liens approved by HUD.

3. Disputes

(a) Except for disputes arising under the Labor Standards clauses, all disputes arising under or relating to this contract, 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 Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.

(c) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.

(d) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within 30 days after receipt of the Contracting Officer's decision.

(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 or relating to the contract, and comply with any decision of the Contracting Officer.

4. Default

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In the event, the PHA may take over the work and complete it by contract or otherwise, and may take possession of and use

any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

(b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if –

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor; and

(2) The Contractor, within 10 days from the beginning of such delay notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of Fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligation of the parties will be the same as if the termination had been for convenience of the PHA.

5. Termination for Convenience

(a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.

(b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of

legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.

The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.

(d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

6. Insurance

(a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:

(1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.

a. Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$ [Contracting Officer insert amount] per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract.

b. Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

(b) When a proposed modification requires the approval of HUD prior to its issuance (e.g., a change order that exceeds the PHA's approved threshold), such modification shall not be effective until the required approval is received by the PHA.

8. Changes

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:

(1) In the specifications (including drawings and designs); (2) In the method or manner of performance of the work; (3) PHA-furnished facilities, equipment, materials, services, less than \$_____ per occurrence.

[Contracting Officer insert amount] per or site; or,

(4) Directing the acceleration in the performance of the

(b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need

not be carried on excavations, piers, footings, or foundations until such time as work on the super-structure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

7. Contract Modifications

(a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.

(b) The Contracting Officer may modify the contract unilaterally

(1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or responsibilities of the parties (e.g., work.)

(b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.

Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under

paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

(1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs – when size of change warrants revision.

(2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.

(3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change. The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor.

Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.

(g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.

(h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.

(i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.

(j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

9. Examination and Retention of Contractor's Records

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

10. Rights in Data and Patent Rights (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.

11. 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.

12. 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.

13. 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.

I 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

**Equal Employment
Opportunity Certification**
Excerpt From 41 CFR §60-1.4(b)

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Department of Veterans Affairs
OMB Control No. 2502-0029
(exp. 7/31/2009)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, 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 in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: **Provided, however,** That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed

Firm Name and Address

By

Title

upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Excerpt from HUD Regulations

200.410 Definition of term "applicant".

- (a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term "applicant" as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph(a) of this section, the term "applicant" as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420 Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:
During the performance of this contract, the contractor agrees as follows:
 - (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.
 - (2) The contractor will 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 race, creed, color, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 10925 of March 6 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The contractor will include the provisions of Paragraphs(1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (b) Except in subcontracts for the performance of construction work at the site of construction, the clause is not required to be inserted in subcontracts below the second tier. Subcontracts may incorporate by reference to the equal opportunity clause.

200.425 Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:
 - (1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.
 - (2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;
 - (3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;
 - (4) Contracts for the sale of Government property where no appreciable amount of work is involved; and
 - (5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.

SAMPLE CONSTRUCTION PERFORMANCE BOND

For

EXTERIOR SEALING, PAINTING AND STUCCO REPAIR

Add Alternate – Gutter Repair / Replacement

MCKINLEY PARK

2165 BUENA VISTA AVENUE, ALAMEDA CA

WHEREAS, the Alameda Recreation and Park Department of the City of Alameda, Alameda, California, and

_____, (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 201_ and identified as project _____, is hereby referred to and made a part hereof; and

WHEREAS said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement, and

WHEREAS, Surety is an insurer admitted to transact surety insurance in the State of California,

NOW, THEREFORE, we, the Principal and _____
_____, Surety, are held and firmly bound unto the Alameda Recreation and Park Department of the City of Alameda, Alameda, California hereinafter called "ARPD", in the penal sum of

_____ dollars, (\$ _____)

lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the ARPD, its officials, employees, agents and volunteers, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the ARPD in successfully enforcing such obligation.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed there under or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on _____, 2014.

Principal _____

Surety _____

By _____

By _____

Title _____

Title _____

(SEAL AND NOTARIAL
ACKNOWLEDGMENT OF SURETY)

END OF DOCUMENT

SAMPLE CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND

For
EXTERIOR PAINTING, SEALING AND STUCCO REPAIR
Add Alternate – Gutter Repair / Replacement
MCKINLEY PARK
2165 BUENA VISTA AVENUE, ALAMEDA CA

WHEREAS, the Alameda Recreation and Park Department of the City of Alameda, Alameda, California, and _____, (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 201_ and identified as project _____ is hereby referred to and made a part hereof; and

WHEREAS, Under the terms of said agreement, Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the Alameda Recreation and Park Department (ARPD) of the City of Alameda, California, to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California, and

WHEREAS, Surety is an insurer admitted to transact surety insurance in the State of California,

NOW, THEREFORE, said Principal and the undersigned as corporate Surety, are held firmly bound unto the ARPD of the City of Alameda, Alameda, California, hereinafter called "ARPD" and all contractors, subcontractors, laborers, material men and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of: _____ dollars (\$ _____), lawful money of the United States, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Authority in successfully enforcing such obligation, to be awarded and fixed by the court.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suits brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety thereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on _____, 201_.

Principal _____

Surety _____

By _____

By _____

Title _____

Title _____

(SEAL AND NOTARIAL
ACKNOWLEDGMENT OF SURETY

END OF DOCUMENT

ADDENDA

[DOCUMENT TO BE COMPLETED AS ADDENDA DURING PROPOSAL PERIOD]

END OF DOCUMENT

General Conditions

WAGE DECISION

Davis-Bacon General Decision Number: CA140029 03/07/2014 CA29 [Please refer to Appendix A]

Applicability

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

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

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

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

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

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

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

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

Specifications

U.S. Department of Labor Payroll Reporting Form [Please Refer to Appendix B]

END OF DOCUMENT

SPECIFICATIONS

SCOPE OF WORK

1. GENERAL

- 1.1 Contractor shall be responsible for all management and sub-contractor specialty licensed trade work of the sealing and painting exterior of recreation building, and the repair of stucco work, the removal of and legal off-site disposal of all loose, non-embedded construction debris
- 1.2 Specifications cover the requirements for a warranty which consists of the Manufacture Warranty.
- 1.3 Contractor shall be responsible for obtaining all applicable required permits and for fees associated with this project. These costs shall be factored into the pricing submitted by bidders. No work shall commence until proof of building permit issuance by the City of Alameda Planning and Building Department has been provided to ARPD.
- 1.4 Contractor shall carefully confirm all site conditions, measurements, dimensions and square footages prior to proposal submission and subsequent commencement of work. Any errors in determining site conditions, measurements, dimensions and square footage shall be the sole responsibility of the Contractor.
- 1.5 Contractor shall assume that Regulated Asbestos Containing Materials (RACM) does not exist in relation to this work.
- 1.6 Contractor shall assume that lead based paint conditions do exist in relation to this work.
- 1.7 Contractor shall be responsible for the physical removal and legal off site disposal of all materials and debris during this project, and such off site disposal shall be performed in compliance with all applicable laws. All work performed in removing the existing materials and installing the new products must be performed by properly licensed personnel.
- 1.8 Install all products in accordance with manufacturer's specifications.
- 1.9 Contractor to take care in preserving the integrity of the adjacent sites, and ensure consistency of work in order to maintain the overall appearance of the area / building.

END OF SECTION

EXTERIOR PAINTING OF THE RECREATION BUILDING

PAINTING AND COATING

PART 1 - GENERAL

1.01 SUMMARY

A. Section Includes:

1. All labor, materials and equipment necessary to complete the preparation, painting and finishing of exposed exterior surfaces, cleaning, waste disposal, and sitework to produce a complete project.
2. Removal and disposal of lead-containing paint including testing for determination of hazardous waste status.
3. Coordination with all Subcontractors.

B. Drawings and general provisions of the Contract, including General and Supplementary Conditions, apply to this Section.

C. Related Section

1. Sheet Metal Flashing and Trim: For finish painting of repaired gutters and drains. (Add Alternate)
2. Exhibit A - Lead Hazard Risk Assessment & Lead-Based Testing Report: For lead hazard assessment of existing conditions of lead-containing paint.

A. Cal/OSHA - State of California, The Division of Occupational Safety and Health

1. Construction Safety Orders.

B. CCR – California Code of Regulations

1. Title 8, Section 1532.1 – Lead
2. Title 17, Public Health

C. CDPH - California Department of Public Health

D. CFR - Code of Federal Regulations

1. 29 CFR 1910.1200 - Hazard Communication.
2. 29 CFR 1926 - Safety and Health Regulations for Construction.
3. 29 CFR 1926.62 - Subpart D - Occupational Health and Environmental

Controls: Lead.

4. 40 CFR 260 - Hazardous Waste Management Systems: General.
5. 40 CFR 261 - Identification and Listing of Hazardous Waste.
6. 40 CFR 262 - Generators of Hazardous Waste.
7. 40 CFR 263 - Transporters of Hazardous Waste.
8. 40 CFR 264 - Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

- 9. 40 CFR 265 - Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
- 10. 40 CFR 268 - Land Disposal Restrictions.

11. 49 CFR 172 - Hazardous Materials Tables and Hazardous Materials Communications Regulations.

12. 49 CFR 178 - Shipping Container Specification.

E. EPA - Environmental Protection Agency

- 1. RRP - Renovation, Repair and Painting

F. HEPA - High-Efficiency Particulate Air

G. HUD - U.S. Department of Housing and Urban Development

- 1. Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing.

H. NIOSH - The National Institute for Occupational Safety and Health

I. UL - Underwriters Laboratories

- 1. 586 - High-Efficiency, Particulate, Air Filter Units.

1.02 SUBMITTALS

A. Product Data: Submit manufacturer's product data for each paint system specified including primers. Provide manufacturer's technical information including label analysis and instructions for handling, storage and application of each material proposed for use.

B. Samples

- 1. Following the selection of colors and glosses by the Project Manager, submit samples for review.
 - a. Provide 3 samples of each color and each gloss for each material on which the finish is specified to be applied.
 - b. Except as otherwise directed by the Project Manager, make samples approximately 8 inches by 10 inches in size.
- 2. Revise and resubmit each sample as requested until the required gloss, color and texture are achieved. Such samples, when approved, will become standards of color and finish for accepting or rejecting the work of this Section.
- 3. Do not commence finish painting until approved samples are on file at the job site.

1.03 QUALITY ASSURANCE

A. Regulatory Requirements

1. Lead Abatement Standards and Guidelines: Unless otherwise indicated by Exhibit A, Contractor presumes the presence of lead-based paint on all coated surfaces. The execution of the work shall comply with all applicable federal, state and local laws, rules, regulations and guidelines including 29 CFR 1926, 29 CFR 1926.62, 29 CFR 1910.1200, 40 CFR Part 261, CCR Title 8, Section 1532.1, CCR Title 17, Cal/OSHA and HUD requirements. Failure to include specific regulations does not eliminate need for compliance. Submission of a bid confirms compliance with all relevant legal and regulatory requirements for control of lead-based paint hazards and ensures safe work environment during construction and upon completion in all work areas and all areas effected by scope of work indicated in the contract and related documents.
 - a. Lead paint testing and risk assessment information is included in the bid package in Section "*COMPLETE LBP RA Location*".
2. Codes and Ordinances: Contractor shall facilitate inspection and comply with all governing codes and ordinances of the City of Alameda, the County of Alameda and the State of California pertaining to building construction, zoning, environmental protection, energy efficiency and worker safety.
3. Permits: Contractor shall provide all permits required to complete the scope of work. The building permit shall be on site before the first payment request will be approved. A copy of the signed-off building permit shall be required before the final progress payment will be released.
4. Handling of Lead-Contaminated Waste: Handle, store, transport and dispose lead or lead-contaminated waste in accordance with 40 CFR 260, 40 CFR 261, 40 CFR 262, 40 CFR 263, 40 CFR 264 and 40 CFR 265. Comply with land disposal restriction notification requirements as required by 40 CFR 268.

B. Workmanship: All work shall be performed by mechanics both licensed and skilled in their trade as well as the tasks assigned to them.

C. EPA Certification: All firms shall submit copies of their company's EPA certification as well as training certificates for all workers who might disturb any coated surfaces during the conduct of their scope of work. Only certified firms may perform any work that disturbs any painted surface or any demolition of substrates that might contain lead. California Department of Public Health (CDPH) lead-paint certifications for workers or Supervisors may be substituted for the 1-day EPA RRP training.

- D. Pre-Construction Conference: Meet with the Project Manager to discuss in detail the lead- containing paint removal work plan, including work procedures and precautions for the work plan.

1.04 MAINTENANCE

- A. Upon completion of the work of this Section, deliver to the Owner an extra stock equaling 10 percent of each color, type and gloss of paint used in the Work; tightly sealing each container, and clearly labeling with contents and location where used.

1.05 PROJECT CONDITIONS

- A. Conditions existing at time of inspection for bidding purposes will be maintained by the Owner as far as practical.
- B. Lead-Containing Paint: Some or all of the paint encountered on the Project may contain lead. Contractor shall take all precautions necessary, including those required by law, to protect persons and property from lead paint hazard. All hazardous waste shall be tested and disposed of properly and in accordance with all laws and regulations.

PART 2 - PRODUCTS

2.01 MATERIALS AND EQUIPMENT

- A. Materials, General: All materials used shall be new, of first quality and without defects unless stated otherwise or pre-approved by the Owner.
- B. Respirators: Furnish appropriate respirators approved by NIOSH for use in atmospheres containing lead dust. Respirators shall comply with the requirements of 29 CFR 1926.62.
- C. Special Protective Clothing: Furnish personnel who will be exposed to lead-contaminated dust with appropriate disposable protective whole body clothing, head covering, gloves, and foot coverings. Furnish appropriate disposable plastic or rubber gloves to protect hands.
- D. Rental Equipment Notification: If rental equipment is to be used during lead-containing paint handling and disposal, notify the rental agency in writing concerning the intended use of the equipment. Furnish a copy of the written notification to the Project Manager.
- E. Vacuum Filters: UL 586-labeled HEPA filters. F. Plastic Sheeting: 6-mil thickness.
- F. Surface Cleaner: EPA-registered disinfectant, sanitizer and cleaner for mold remediation, as manufactured by Fiberlock Technologies, Inc., "ShockWave", or Pre- approved equal.

2.02 APPLICATION EQUIPMENT

- A. For application of the approved paint, use only such equipment as is recommended for application of the particular paint by the manufacturer of the particular paint and as approved by the Project Manager.
- B. Prior to use of application equipment, verify that the proposed equipment is actually compatible with the material to be applied, and that integrity of the finish will not be jeopardized by use of the proposed equipment.

PART 3 - EXECUTION

3.01 PREPARATION

- A. Surface Preparation, General
 1. Perform preparation and cleaning procedures in strict accordance with the paint manufacturers' recommendations as approved by the Project Manager.
 2. Remove removable items which are in place and are not scheduled to receive paint finish or provide surface-applied protection prior to surface preparation and painting operations.
 3. Following completion of painting in each space or area, reinstall the removed items by using workmen who are skilled in the necessary trades.
- B. Treatment of Existing Lead-Containing Paint

3.02 PAINT APPLICATION

- A. General
 1. Touch up shop-applied prime coats which have been damaged and touchup bare areas prior to start of finish coats application.
 2. Do not apply additional coats until the completed coat has been inspected and approved. Only the inspected and approved coats of paint will be considered in determining the number of coats applied.
 3. On removable or hinged panels, paint the back sides to match the exposed sides.
- B. Drying: Allow sufficient drying time between coats, modifying the period as recommended by the material manufacturer to suite adverse weather conditions.
- C. Brush Applications
 1. Brush out and work the brush coats onto the surface in an even film.

2. Cloudiness, spotting, holidays, laps, brush marks, runs, sags, ropiness and other surface imperfections will not be acceptable.

D. Spray Application

1. Except as specifically otherwise approved by the Project Manager, confine spray application to metal framework and similar surfaces where hand brush work would be inferior.
2. Where spray application is used, apply each coat to provide the hiding equivalent of brush coats.
3. Do not double back with spray equipment to build up film thickness of 2 coats in 1 pass.

- E. For completed work, match the approved samples as to texture, color and coverage. Remove, refinish or repaint work not in compliance with the specified requirements.

3.03 EXTERIOR PAINTING SCHEDULE

- A. Cement Plaster and Wood: Provide finish coat(s) to cover over lead barrier compound.

1. Lead Barrier Compound: Thermoplastic-elastomeric, water-based copolymer professional lead encapsulant/sealant; apply at spreading rate recommended by the manufacturer to achieve a total dry film thickness of not less than 7.0 mils per coat.
 - a. Color: Tint to 80 percent of finish coat color.
 - b. Product: As manufactured by Fiberlock Technologies, Inc., "LBC", or equal.
2. Finish Coat(s): 100 percent acrylic, low sheen paint; apply at spreading rate recommended by the manufacturer to achieve a total dry film thickness of 1.5 to 2.0 mils per coat.
 - a. Colors: Refer to Section 1.01
 - b. Product: As manufactured by Kelly-Moore, "1245 Acry-Shield", or pre-approved equal.

- B. Metal: Provide finish coat over primer.

1. Primer: High-performance acrylic; apply at spreading rate recommended by the manufacturer to achieve a total dry film thickness of 1.5 to 2.0 mils per coat.
 - a. Colors: Tint to 80 percent of finish coat color.
 - b. Product: As manufactured by Kelly-Moore, "5725 DTM", or pre-approved equal.
2. Finish Coat: 100 percent acrylic, semi-gloss enamel; apply at spreading rate recommended by the manufacturer to achieve a total dry film thickness of 1.4 to 1.8 mils per coat.
 - a. Colors: Refer to Section 1.01
 - b. Product: As manufactured by Kelly-Moore, "1250 Acry-Shield", or pre-approved equal.

3.04 WARRANTY

- A. A manufacturer's warranty shall be issued upon completion, inspection and acceptance of the project. The warranty shall cover products and any defects in the coating.
- B. The warranty provider shall certify to having an established program that efficiently performs warranted repairs in the event the original Contractor becomes unable to do so. Any repairs covered by the warranty are without cost to City of Alameda throughout the term of the warranty.
- C. Issuance of the warranty is dependent upon a proper application and following standard procedures; therefore, prior review of the specification by a manufacturer's representative is required, and also a review of the bidders' qualifications by City of Alameda.

3.06 MATERIALS, DELIVERY AND STORAGE

- A. Provide personnel and equipment as required to handle products safely and by methods that prevent hazard to surroundings and soiling, contamination and other damage to products and packaging.
- B. Materials shall be delivered in the manufacturer's original tightly sealed containers or unopened packages clearly labeled with the manufacturer's name, product identification, safety information, UL approvals, and batch or lot numbers where applicable.
- C. Containers shall be stored out of the weather and out of direct sunlight at temperatures within the limits specified by the materials manufacturer.
- D. All materials must be stored in compliance with local fire and safety requirements.

3.07 ENVIRONMENTAL CONDITIONS

- A. Minimum weather conditions must be present at the beginning of the application. If weather conditions change during the application and the stated conditions are not met, the application must be stopped until such time as all the specified conditions are met.

END OF SECTION

3.08 LEAD-CONTAINING PAINT REMOVAL AND REPAINTING

A. All existing paint shall be assumed to contain lead unless specifically noted otherwise. If a specific area or component was NOT tested, Contractor shall presume existing paint contains lead.

B. Perform removal of lead-containing paint in accordance with approved lead-containing paint removal plan described. Use procedures and equipment required to limit occupational and environmental exposure to lead when lead-containing paint is removed in accordance with 29 CFR 1926.62, except as specified herein. Dispose of removed paint chips and associated waste in compliance with EPA, federal, state, and local requirements.

C. Monitoring During Paint Removal or Paint Disturbance

1. Monitoring of airborne concentrations of lead shall be in accordance with 29 CFR 1926.62.
2. Perform personal and area monitoring during the entire paint preparation operations. Sufficient area monitoring shall be conducted at the physical boundary to ensure unprotected personnel are not exposed above 30 micrograms per cubic meter of air at all times.
3. As a minimum, conduct area monitoring daily on each shift in which lead paint removal operations are performed in areas immediately adjacent to the lead control area. For outdoor operations, at least 1 sample on each shift shall be taken on the downwind side of the lead control area.
4. If the outside boundary lead levels are at or exceed 30 micrograms per cubic meter of air, work shall be stopped and the Contractor shall immediately correct the condition(s) causing the increased levels and notify the Project Manager immediately. Removal work shall resume when approval is given by the Project Manager.

D. Preparation

1. Mist water on areas to be painted, including plaster and wood surfaces. Wet scrape to remove all loose paint from surfaces. Feather edge with wet sanding block. No dry sanding, pressure washing or open-flame burning is permitted.
2. All surfaces to be painted shall be sound, free from holes, defects and irregularities. Patching material shall be smooth and primed before painting.
3. Vacuum with a HEPA filtered vacuum cleaner.
4. Wet clean all mildewed areas with "ShockWave" disinfectant and allow surface to dry.

E. Painting

1. Unless noted otherwise, paint all exterior exposed surfaces, including windows, doors, trim, railings and posts.
2. Spot prime and paint sufficient coats to cover with no holidays or runs, as specified.

**GUTTER REPLACEMENT / REPAIR
SHEET METAL FLASHING AND TRIM**

Add Alternate

PART 1 - GENERAL

1.01 SUMMARY

- A. Section Includes: Repair of existing gutters and other sheet metal items as indicated on the Drawings or as required.
- B. Drawings and general provisions of the Contract, including General and Supplementary Conditions, apply to this Section.
- C. Related Sections
 - 1. Section 1 - Painting and Coating: For finish painting.

1.02 REFERENCES

- A. ASTM - American Society for Testing and Materials
 - 1. A653 - Standard Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process.
 - 2. B32 - Standard Specification for Solder.
- B. AWS - American Welding Society
- C. SMACNA - Sheet Metal and Air Conditioning Contractors' National Association
- D. SSPC - The Society for Protective Coatings
 - 1. Paint 12 - Paint Specification No. 12: Cold-Applied Asphalt Mastic (Extra Thick Film).

1.03 SYSTEM DESCRIPTION

- A. Performance Requirements
 - 1. Work of this Section shall prevent water leakage to building interior.
 - 2. Install sheet metal flashing and trim to withstand wind loads, structural movement, thermally induced movement, and exposure to weather without failing.

1.04 SUBMITTALS

- A. Shop Drawings: Submit drawings showing material profile, jointing pattern, jointing details, intersections, fastening methods, flashings, terminations, and installation details prior to fabrication.

PART 2 - PRODUCTS

2.01 MATERIALS

- A. Zinc-Coated Steel: Commercial quality with 0.20 percent copper, ASTM A653, G90 hot-dip galvanized, mill phosphatized where indicated for painting.
- B. Miscellaneous Materials and Accessories
 - 1. Solder and Flux: For use with steel, provide 50 - 50 tin/lead solder, ASTM B32, with rosin flux. Re-melted or reworked solder will not be permitted.
 - 2. Fasteners: Same metal as flashing/sheet metal or other noncorrosive metal as recommended by sheet manufacturer. Match finish of exposed heads with material being fastened.
 - 3. Bituminous Coating: SSPC Paint 12, solvent type bituminous mastic, nominally free of sulfur, compounded for 15 mil dry film thickness per coat.
 - 4. Metal Accessories: Provide sheet metal clips, cleats, straps, anchoring devices, and similar accessory units as required for installation of work, matching or compatible with material being installed, noncorrosive, size, and gauge required for performance.
- C. Repair of Existing Gutters and Drains
 - 1. General: As specified
 - 2. Preparation of Metal Surfaces for Painting
 - a. Thoroughly clean surfaces until free from dirt, oil and grease.
 - b. On galvanized surfaces, use solvent for the initial cleaning and then treat the surface thoroughly with phosphoric acid etch. Remove etching solution completely before proceeding.
 - c. Allow to dry thoroughly before application of paint.

2.02 FABRICATION

- A. Shop Assembly
 - 1. Design and fabricate work in accordance with SMACNA, unless otherwise indicated.
 - 2. As far as practicable, form and fabricate sheet metal in shop. Where on-site fabrication is required, provide work equal to shop quality. Additionally, identify bulk materials from which items are field fabricated by manufacturer's trademark printed or embossed at frequent intervals.
 - 3. Reproduce accurately profiles and bends indicated.
 - 4. Provide profiles with interactions that are sharp, even, and true; with plane surfaces free from buckles and waves; and seams that follow direction of water flow.
 - 5. Reinforce correctly for strength and appearance.
 - 6. Cut, fit, and drill sheet metal as required to accommodate related, adjacent, or adjoining work.

7. Fold, bend, or return exposed edges of sheet metal. Raw edges will not be permitted.
8. Form pieces in longest practical lengths.

B. Sheet Metal Joints

1. In general, provide lock joints; where impractical, lap, rivet, solder, or weld joints, or join as otherwise recommended by a system manufacturer.
2. Join joints and miters as recommended by a system manufacturer.
3. Where positive joining is required, weld in accordance with applicable AWS standards.
4. Turn lock joints on exposed surfaces in direction of flow.

C. Soldering

1. Neatly solder exposed surfaces.
2. Pre-tin edges minimum 1-1/2 inches both sides prior to soldering.
3. Solder and seal metal joints. After soldering, remove flux. Wipe and wash solder joints clean.

- D. Expansion and Contraction of Sheet Metal Runs:** Provide loose locking slip joint of maximum 8 feet from external and internal corners, maximum 24 feet length of straight runs, unless manufacturer recommends more frequent interval, and 1 at center of runs less than 20 feet, but more than 8 feet, unless specified otherwise following herein.

- E. Painting:** As specified.

PART 3 - EXECUTION

3.01 INSTALLATION

- A. Conform with SMACNA procedures and methods of installation.
- B. Where installation requires fabrication at the Project site, conform to applicable requirements of Article titled "Fabrication" in this Section.
- C. Install work watertight; ensure that items are installed in true and accurate alignment with other items and related work, that joints are accurately fitted, that corners are reinforced and that exposed surfaces are free of dents.
- D. Apply flashing compound at slip joints or wherever metal-to-metal contact occurs and movement may be anticipated to occur.
- E. Fastenings
 1. Fasten sheet metal runs to underlying material by nailing through slotted holes in flange at 3 inches on center, unless otherwise indicated or required by manufacturer.
 2. Provide waterproof washers wherever fasteners penetrate flashings.

3. Where sheet metal occurs over built-up roofing materials or other sheet metal, use nails with minimum 1 inch metal disks.
- F. Gutters: Join sections with riveted and soldered or lapped joints sealed with sealant. Provide for thermal expansion. Slope to rainwater leaders. Provide end closures and seal watertight with sealant.
1. Install felt underlayment layer in built-in gutter trough and extend to drip edge at eaves and under felt underlayment on roof sheathing. Lap sides a minimum of 2 inches over underlying course. Lap ends a minimum of 4 inches. Stagger end laps between succeeding courses at least 72 inches. Fasten with roofing nails. Install slip sheet over felt underlayment.
 2. Anchor and loosely lock back edge of gutter to continuous cleat.
 3. Anchor back of gutter that extends onto roof deck with cleats spaced not more than 24 inches apart.
 4. Install gutter with expansion joints at locations indicated, but not exceeding, 50 feet apart. Install expansion-joint caps.
- G. Rainwater Leaders: Join sections with 1-1/2 inch telescoping joints.
1. Provide hangers with fasteners designed to hold rainwater leaders securely to walls. Locate hangers at top and bottom and at approximately 60 inches o.c. in between.
 2. Provide elbows at base of rainwater leader to direct water away from building.

3.02 SCHEDULE

- A. Fabricate sheet metal items in thickness or weight needed to comply with performance requirements but not less than that listed below for each application and metal. Where flashing gauge conflicts between the Drawings and Specifications, provide the heavier gauge.
1. Gutters with Girth up to 15 Inches: Galvanized steel, 0.0217-inch thick (26 gauge).
 2. Gutters with Girth 16 to 20 Inches: Galvanized steel, 0.0276 inch-thick (24 gauge).
 3. Gutters with Girth 21 to 25 Inches: Galvanized steel, 0.0336-inch thick (22 gauge).
 4. Gutters with Girth 26 to 30 Inches: Galvanized steel, 0.0516-inch thick (18 gauge).
 5. Rainwater Leaders: Galvanized steel, 0.0217-inch (26 gauge).
 6. Diverters: Galvanized steel, 0.0276-inch thick (24 gauge).
 7. Exposed Trim and Fascia: Galvanized steel, 0.0276-inch thick (24 gauge).

END OF SECTION

END OF DOCUMENT