



**CITY OF IOWA CITY**

410 East Washington Street  
Iowa City, Iowa 52240-1826  
(319) 356-5000  
(319) 356-5009 FAX  
www.icgov.org

**DATE:** March 10, 2010

**REQUEST FOR PROPOSAL:**

**#10-66, LANDSCAPE MAINTENANCE FOR THE CITY OF IOWA CITY**

**NOTICE TO PROPOSERS:** Sealed Proposals will be received at the Office of the City Clerk, until the time and date specified below, for:

**LANDSCAPE MAINTENANCE FOR THE CITY OF IOWA CITY**

**ADDRESS BIDS TO:** Attention of the City Clerk's Office, City Hall, 410 E. Washington St., RM140, Iowa City, IA 52240-1826. Proposals shall be **sealed** and clearly marked on the front "**Request for Proposal for Landscape Maintenance for the City of Iowa City, #10-66.**"

**Faxed and E-mailed Proposals will not be accepted.**

**PROPOSALS ARE DUE NO LATER THAN:** **2:30 p.m. (CT), March 23, 2010.** Proposers must submit two (2) copies of their proposal.

The City is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City, or any other means of delivery employed by the bidder. Similarly, the City is not responsible for, and will not open, any proposal responses which are received later than the date and time stated above.

**BONDS AND INSURANCE:** Insurance is required with this Request for Proposal, as specified in Section III B.  
A Performance Bond is not required.

**QUESTIONS:** All questions and clarifications regarding this Request for Proposal can be answered by e-mailing or calling the following City representative **no later than March 18, 2010, 4:00 p.m. (CT):**

Purchasing:  
Mary Niichel-Hegwood  
Purchasing Agent  
(319) 356-5078

**NO CONTACT POLICY.** After the date and time established for receipt of proposals by the City, any contact initiated by the bidder or by a City representative, other than the Purchasing Division representative listed herein, concerning this Request for Proposal is prohibited. Any such unauthorized contact may cause the disqualification of the proposer from the procurement transaction.

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**SECTION I. PROPOSAL REQUIREMENTS CHECKLIST**

**DOCUMENTS REQUIRED TO BE SUBMITTED WITH THE VENDOR'S PROPOSAL**  
**(Please review the following checklist to make sure the documents are included with your proposal.)**

\_\_\_\_\_

This proposal must be summarized in letterform on the vendor's letterhead stationary. The summarized letter must include a general description of the company identifying the following:

- The individual from the company who will be responsible for overseeing the landscape maintenance and dealing with the City of Iowa City
- The number of years the vendor has been in business providing the specified services
- The number of employees that the vendor will have responsible for this contract

The vendor's letter must be signed by an officer of the vendor or a designated agent empowered to bind the firm in the contract offer.

\_\_\_\_\_

A minimum of three references from companies or agencies for projects similar in scope to this bid. Include the company or agency's name and address, the name, title, phone number of each reference (**Section V**).

\_\_\_\_\_

A completed and signed Pricing and Company Information Form (**Section VI**). The City is not responsible for the vendor's failure to provide information and pricing on required items. In this instance the prices submitted will prevail as the bid price for all required equipment, materials, labor, and travel.

**EXCEPTIONS/ DEVIATIONS** to this Request for Proposal are to be included in Section VI. If adequate space is not provided for exceptions/deviations, please use a separate sheet of paper. **If your company has no exceptions/deviations, please write "No Exceptions" in the space provided. If you state no exceptions, you may not add your company's terms and conditions or any other documents to your submitted proposal or any submittals after the proposal due date.**

\_\_\_\_\_

Completed Certifications and Representations of Offerors Form, pages 1 & 2 (**Section VI**)

**Note:** The vendor's proposal must include the items listed above and must be sealed at submission time. Failure on the vendor's part to submit a sealed proposal and a complete proposal may be cause for rejection of the vendor's proposal.

**SECTION II. SPECIFIC CONDITIONS AND INSTRUCTIONS TO THIS PROPOSAL****A. SCOPE OF WORK:**

The City of Iowa City is requesting proposals from qualified Contractors to submit a price to provide landscape maintenance for several locations (see Section IV.) throughout Iowa City per the terms, conditions and specifications herein.

Landscape maintenance will include mowing and trimming, the trimming of shrubs, lawn treatment, and mulch installation at designated locations. In order to become familiar with the required services, interested vendors are strongly encouraged to independently visit the locations specified in this Request for Proposal.

**B. TERM OF CONTRACT:**

1. This contract will commence in March 2010; the official contract start date will be designated as the date stated on the issued Purchase Order. The contract term will be for a period of twelve (12) months with the option to renew for three (4) additional twelve (12) month periods.
2. Requests for proposed price changes after the initial term of the contract must be submitted in writing to the Purchasing Agent (90) calendar days prior to contract renewal. The City reserves the right to accept or reject price increases, to negotiate more favorable terms, or to terminate without cost, the future performance of the contract.
3. Notice of intent to renew will be given to the vendor in writing, sixty (60) calendar days prior to the expiration date of the current contract. This notice will not be deemed to commit the City of Iowa City to a contract renewal. During the renewal periods, the City reserves the right to issue a new solicitation for the services described.

**C. PROPOSAL REQUIREMENTS:**

1. The vendor is responsible for all costs related to the preparation of this proposal.
2. The format of the vendor's proposal must be consistent with the format of the specifications listed.
3. No bid security will be required.
4. Insurance will be required before commencement of work, see Section III-B.
5. The submission of a proposal by the vendor implies the vendor's acceptance of the terms and conditions of this Request for Proposal, unless otherwise stated.
6. Proposers are required to meet all qualifications and specifications of this Request for Proposal in order to be considered for award.
7. At the time of the submission, it will be assumed that each proposer has read and is thoroughly familiar with the contract documents, the locations requiring maintenance, and the requirements of the project. The failure or omission of a vendor to examine any document shall in no way relieve the vendor from any obligation in respect to its proposal.
8. The Contractor will be required to furnish all supervision, labor, materials, tools, travel, and equipment necessary to complete the proposed project in a timely manner. All costs to complete this project must be included in the submitted proposal; no additional costs will be paid by the City.

9. Proposals will be considered only from companies which are regularly engaged in the business as described in this Request for Proposal document; with a record of performance for a reasonable period of time, which have sufficient financial support, equipment, and organization to ensure that they can satisfactorily execute the service if awarded an Agreement under the terms and conditions stated herein. The terms “equipment and organization” as used herein shall be construed to mean a fully equipped and well established company in line with the best business practice in the industry and as determined by the City.
10. Vendors interested in submitting a proposal must be able to provide proof of being in business for a minimum of three (3) years. In addition, the business must have an adequate number of experienced staff to perform the requirements of this contract.
11. Proposed pricing shall specify F.O.B. destination and include all costs to fulfill the contract.
12. Vendors **must** include the following items with their submitted proposal:
  - a. This proposal must be summarized in letterform on the vendor’s letterhead stationary. The summarized letter must include a general description of the company identifying the following:
    - The individual from the company who will be responsible for overseeing the landscape maintenance and dealing with the City of Iowa City
    - The number of years the vendor has been in business providing the specified services
    - The number of employees that the vendor will have responsible for this contract

The vendor’s letter must be signed by an officer of the vendor or a designated agent empowered to bind the firm in the contract offer.
  - b. A minimum of three references from companies or agencies for projects similar in scope to this bid. Include the company or agency’s name and address, the name, title, phone number of each reference (**Section V**).
  - c. A completed and signed Pricing and Company Information Form (**Section VI**). The City is not responsible for the vendor’s failure to provide information and pricing on required items. In this instance the prices submitted will prevail as the bid price for all required equipment, materials, labor, and travel.
 

**EXCEPTIONS/ DEVIATIONS** to this Request for Proposal are to be included in Section VI. If adequate space is not provided for exceptions/deviations, please use a separate sheet of paper. **If your company has no exceptions/deviations, please write “No Exceptions” in the space provided. If you state no exceptions, you may not add your company’s terms and conditions or any other documents to your submitted proposal or any submittals after the proposal due date.**
  - d. Completed Certifications and Representations of Offerors Form, pages 1 & 2 (**Section VI**)
13. Responses to this Request for Proposal may be rejected if the vendor fails to perform any of the following:
  - a. To adhere to one or more of the provisions established in this Request for Proposal
  - b. To demonstrate competence, experience, and ability to provide the commodities and services described in this Request for Proposal
  - c. To submit a response on or before the deadline, and complete all required forms
  - d. To respond to a written request for clarification or additional information

**D. EVALUATION PROCESS:**

An evaluation committee will independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP. Failure of the vendor to provide any information requested in the RFP may result in disqualification of the proposal and shall be the responsibility of the vendor. The evaluation process shall be based on a 100 point scale. The proposal that accrues the highest point total shall be recommended for award subject to the best interests of the City of Iowa City. Categories have been identified for the evaluation process. Each category shall receive a point value within the specified range based on how well the proposal meets or exceeds the City's requirements. The following table lists the maximum points associated with each category.

Each proposal submitted stands alone and will be evaluated on its own merits in terms of meeting the City's requirements and terms and conditions, pricing, and overall responsiveness to the Request for Proposal.

**“Vendor submission of a proposal implies vendor acceptance of the evaluation technique and vendor recognition that some subjective judgments shall be made by the City of Iowa City during assignment of points.”**

<u>POINT CATEGORY</u>	<u>ASSIGNED POINTS</u>
1. Pricing	40
2. References/Experience/Customer Service	30
3. Qualifications of Vendor	<u>30</u> 100

**E. CONTRACT AWARD:**

1. The vendor's proposal must be complete to be considered for award.
2. The vendor shall not subcontract any part of this contract without the prior written approval of the City. All subcontractors working on this contract must be employed by and responsible to the awarded vendor.
3. The City reserves the right to qualify, accept, or reject any or all vendors as deemed to be in the best interest of the City. The City of Iowa City reserves the right to accept or reject any or all proposals and to waive irregularities or technicalities in any proposal when in the best interest of the City. The City of Iowa City reserves the right to accept or reject any exception taken by the vendor to the terms and conditions of the Request for Proposal.
4. Consideration may be given to pricing, the vendor's responsiveness to the Request for Proposal, references, customer service and experience, vendor qualifications, and past experience of the City with the vendor.
5. All proposers must be capable of performing the services specified in this document. Before the award of this contract, any proposer may be required to show that they have the necessary equipment, experience, ability, and financial resources to perform the work within the time stipulated in a manner that is acceptable to the City of Iowa City.
6. It is the City's intent to make an award within fourteen (14) working days after proposal submission.
7. Award, if made, will be in accordance with the terms and conditions herein.
8. Award, if made, shall be in the form of a Purchase Order.
9. The awarded vendor(s) will be required to submit a current certificate of insurance prior to commencement of work. The certificate of insurance shall include the following items:
  - The City of Iowa City will be named as additional insured
  - Project bid number and project title as the description
  - Insurance carriers will be rated as A or better by A.M. Best
10. The awarded vendor will be given the City's contract compliance document to complete and return before commencement of the contract, if the project is \$25,000 or more.

11. Award of this contract does not restrict the City from procuring the required services and supplies from other qualified vendors.
12. Any change to the contract must be approved in writing by the Purchasing Agent and the awarded vendor.
13. The City reserves the right to add locations to this contract as needed. The awarded vendor will be contacted by the Purchasing Agent to request pricing for additional locations.
14. The City reserves the right to remove locations from this contract at no cost to the City.
15. The City reserves the right to procure similar services from other vendors as needed.
16. Service of Protest – Any protest against an award of a contract pursuant to this solicitation shall be served on the Purchasing Division by obtaining written and date acknowledgement of receipt from the Purchasing Division (410 E Washington St., Iowa City, IA 52240). The determination of the Purchasing Division with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protester.

**F. REPAIRS:**

1. The Contractor shall repair any damage created as a result of the performance of this contract at his/her cost. All damage repairs must be completed within five (5) calendar days of written notification to the Contractor.
2. If damage repair work is not completed by the specified date as determined by the City, the City will have the site repaired and will bill the Contractor directly for the repair work.
3. Payment for this contract may be withheld from the Contractor if repair work is not completed by the City's specified date.

**G. INVOICES AND PAYMENT:**

1. All work performed under this contract must be accepted by the City representative in order for the awarded vendor to receive payment.
2. All invoices for work performed under this contract must be sent to the following address:

City Hall  
Attn: Pat MacKay, Housing Authority  
410 E Washington St.  
Iowa City, IA 52440

3. In order to receive payment, the awarded vendor must include the following information on the submitted invoice:
  - Purchase Order Number
  - Detailed Description of the Services Performed
  - Date of Service
  - Location Where Services Were Provided (Address)
  - Unit Price and Total Price of Services
4. Withholding Payment - Consideration for withholding payment shall include faulty materials, or workmanship, failure to meet delivery deadlines, and liens that have been filed, or evidence indicating a possible filing of claims. In all cases, regulations and limitations imposed by the Federal Government and State of Iowa shall prevail.
5. Taxes - The City of Iowa City is exempt from all Federal, State of Iowa and other states' taxes on the purchase of commodities and services used by the City of Iowa City within the State of Iowa. The Purchasing Division shall provide tax exemption certification to out-of-state suppliers as required. Out-of-state taxes imposed on purchases of commodities and/or services which are used within another state are applicable and subject to payment.

**The above conditions and instructions clarify this specific Request for Proposal document, but are in addition to the attached GENERAL CONDITIONS AND INSTRUCTIONS TO PROPOSERS (Section III).**

**SECTION III – REQUEST FOR PROPOSAL**  
**CITY OF IOWA CITY – PURCHASING DIVISION**  
**GENERAL CONDITIONS AND INSTRUCTIONS TO PROPOSERS**

The general rules and conditions which follow apply to all proposals issued by the City unless otherwise specified. Proposers or their authorized agents are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals; failure to do so shall be at the proposer's own risk.

**REQUEST FOR PROPOSAL (RFP):** is defined as a request for an offer, by one party to another, of terms and conditions with reference to some work or undertaking.

This document constitutes a **REQUEST FOR PROPOSAL**, and is thus a solicitation for responses. Conversely, this **REQUEST FOR PROPOSAL** is **NOT** a bid and is not governed by state or federal bidding requirements.

Moreover, any acceptance of a proposal shall **NOT** result in a binding contract between the City and the proposer, but instead will simply enable negotiations to take place which may eventually result in a detailed and refined agreement or contract between the proposer and the City.

"Proposal date" as referenced herein shall mean the local date and time specified in the proposal documents.

**A. CONDITIONS FOR PROPOSING**

**1. NO CONTACT POLICY.** After the date and time established for receipt of proposals by the City, any contact initiated by the bidder or by a City representative, other than the Purchasing Division representative listed herein, concerning this Request for Proposal is prohibited. Any such unauthorized contact may cause the disqualification of the proposer from the procurement transaction.

**2. COMPLETENESS/AUTHORIZATION OF PROPOSAL.** Proposer shall supply all information and submittals required by the proposal documents to constitute a proper proposal. The proposal shall clearly state the legal name, address, telephone number, and fax number of the proposer. The proposal shall be signed above the typed or printed name and title of the signer. The signer shall have the legal authority to bind the proposer to the proposal.

**3. ADDRESSING OF PROPOSAL.** Unless otherwise specified, faxed or e-mailed proposals will not be accepted. Proposal shall be submitted in a sealed envelope or box clearly marked on the front with proposal number and due date, and unless otherwise specified, addressed to:

Attn: City Clerk's Office  
City of Iowa City  
410 E. Washington St., RM 140  
Iowa City, Iowa 52240-1826

**4. PROPOSAL DEADLINE.** Proposer shall be responsible for taking whatever measures are necessary to ensure that the proposal reaches the office of the City Clerk or other specified agent on or before the local time and date specified. The City shall not be responsible for, and may not consider, any proposal delayed in the postal or other delivery service, or in the City's internal mail system, nor any late proposal, amendment thereto, or request for withdrawal of proposal received after the date specified. Proposals received after the time and date specified on the Request for Proposal will not be opened and will not be considered for award.

A written request for withdrawal of a proposal or any part thereof may be granted, provided the request is received in writing by the City prior to the specified proposal date.

**5. RECEIPT OF PROPOSALS.** Unless otherwise required by the Iowa Public Records law, during the process of negotiations, no proposals shall be handled so as to permit disclosure to competing proposers of the identity of the proposer with whom the City is negotiating or the contents of the proposal.

**6. PROPOSALS BINDING 120 DAYS.** Unless otherwise specified, all formal proposals submitted shall be binding for one hundred and twenty (120) calendar days following proposal date, unless the proposer(s), at the City's request, agrees in writing to an extension.

**7. TRADE SECRETS OR PROPRIETY INFORMATION.** The laws of Iowa require that at the conclusion of the selection process the contents of all proposals be placed in the public domain and be open to inspection by interested parties. Trade secrets or proprietary information that are recognized as such and protected by law may be withheld.

**8. MULTIPLE PROPOSALS.** Proposers may submit more than one proposal, provided the additional proposal or proposals are properly submitted on the proposal forms or in the proposal format.

**9. COMPETENCY OF PROPOSER.** No proposal may be accepted from or contract awarded to any person, firm or corporation which is in arrears or in default to the City of Iowa City upon any debt or contract. Prior failure of a proposer to perform faithfully on any previous contract or work for the City may be grounds for rejection. If requested, the proposer, shall present evidence of performance ability and possession of necessary facilities, pecuniary resources and adequate insurance to comply with the terms of these proposal documents; such evidence shall be presented within a specified time and to the satisfaction of the City.

**10. COLLUSIVE PROPOSING.** The Proposer certifies that the proposal is made without any previous understanding, agreement or connection with any person, firm, or corporation making a proposal for the same project, without prior knowledge of competitive prices, and that the proposal is in all respects fair, without outside control, collusion, fraud or otherwise illegal action.

**11. OFFICERS NOT TO BENEFIT.** Upon signing this agreement, Consultant acknowledges that Section 362.5 of the Iowa Code prohibits a City officer or employee from having an interest in a contract with the City, and certifies that no employee or officer of the City, which includes members of the City Council and City boards and commissions, has an interest, either direct or indirect, in this agreement, that does not fall within the exceptions to said statutory provision enumerated in Section 362.5

**12. EQUAL EMPLOYMENT OPPORTUNITY.** All proposers are subject to and must comply with the provisions of the City's EEO policy and applicable local, state and federal anti-discrimination laws. All City Contractors, subcontractors or consultants with contracts of \$25,000 or more (or less, if required by another governmental agency) must abide by the requirements of the City's Contract Compliance. Emergency contracts are exempt from this provision.

## **B. BONDS AND INSURANCE**

**1. BID SECURITY.** When required, no bid shall be considered unless accompanied by either of the following forms of bid security:

a. A certified or cashier's check drawn on a solvent Iowa bank or a bank chartered under the laws of the United States, or a certified share draft drawn on a credit union in Iowa or chartered under the laws of the United States, in an amount equal to a minimum of five percent (5%) of the bid, or

b. A bid bond executed by a corporation authorized to contract as a surety in the State of Iowa, in a penal sum of a minimum of five percent (5%) of the bid.

The bid security shall be made payable to the TREASURER OF THE CITY OF IOWA CITY, IOWA, and shall be forfeited to the City of Iowa City as liquidated damages in the event the successful bidder fails to enter into a contract within fourteen (14) calendar days and, when required, post bond satisfactory to the City insuring the faithful performance of the contract and maintenance of said work, if required, pursuant to the provisions of the bid documents and other contract documents. The amount of the check, draft or bond shall not constitute a limitation upon the right of the City of Iowa City, Iowa, to recover for the full amount of such damage.

Security deposits of the lowest two (2) or more bidders may be retained pending contract award or rejection. All other security deposits will be returned promptly.

**2. PERFORMANCE BOND.** When required, the successful bidder shall furnish a bond in the amount of one hundred percent (100%) of the contract price, said bond to be issued by a responsible surety approved by the City and shall guarantee the prompt payments of all materials and labor and protect and save harmless the City from claims and damages of any kind caused by the operation of the contract, and shall also guarantee the maintenance of the improvement for a specified period following its completion and acceptance by the City. A letter of Irrevocable Credit from a responsible lending agency approved by the City, for the same guarantee(s) as noted above, may be submitted for approval. The City reserves the right to accept or reject this form of guarantee.

**3. INSURANCE REQUIREMENTS.** When required, the successful bidder shall provide insurance as follows:

**a. Certificate of Insurance; Cancellation or Modification**

1. Before commencing work, the Contractor shall submit to the City for approval of a Certificate of Insurance meeting all requirements specified herein, to be in effect for the full contract period.

The Contractor shall notify the City in writing at least thirty (30) calendar days prior to any change or cancellation of said policy or policies.

3. Cancellation or modification of said policy or policies shall be considered just cause for the City of Iowa City to immediately cancel the contract and/or to halt on the contract, and to withhold payment for any work performed on the contract.

4. The policy shall be primary in payment, not excess or contingent, regardless of any other coverage available to the City.

**b. Minimum Coverage**

Any policy or policies of insurance purchased by the Contractor to satisfy his/her responsibilities under this contract shall include contractual liability coverage, and shall be in the following type and minimum amounts:

**Insurance Requirements**

Informal Project Specs: Class I (under \$1M)

<u>Type of Coverage</u>	<u>Each</u>	
	<u>Occurrence</u>	<u>Aggregate</u>
a. Comprehensive General Liability		
(1) Bodily Injury & Property Damage	\$500,000	\$1,000,000
b. Automobile Liability	<u>Combined</u>	
	<u>Single Limit</u>	
(1) Bodily Injury & Property Damage	\$500,000	
c. Worker's Compensation Insurance as required by Chapter 85, Code of Iowa.		

The City requires that the Contractor's Insurance carrier be A rated or better by A.M. Best.

**C. SPECIFICATIONS**

**1. FORMAL SPECIFICATIONS.** The proposer shall abide by and comply with the true intent of the specifications (i.e., not take advantage of any unintentional error or omission). Whenever mention herein is made of a service to be provided in accordance with laws, ordinances, building codes, underwriters' codes or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as the minimum requirements of the specifications.

The absence of a written list of deviations submitted with the proposal shall hold the proposer strictly accountable to the City and to the specifications as written. Any unauthorized deviation from the specifications may be grounds for rejection of the service when delivered.

**2. PROPOSED ALTERNATE.** When an item is identified in the bid document by a manufacturer's name or catalog number, it is understood that the bidder proposes to furnish the commodity and/or service so identified by the City unless the bidder specifically proposes an alternate. In bidding on a proposed alternate, the bidder shall clearly state on his/her bid exactly what he/she proposes to furnish, and forward with his/her bid, a complete description of the proposed alternate, including brand, model number, drawings, performance and test data, references, and any other information necessary for a complete evaluation. Bidder shall include a statement setting forth any changes in other materials, equipment, or other work which would be required by incorporation of the proposed alternate. The burden of proof of the merit of the proposed alternate is upon the proposer.

The City's decision to approve or disapprove of a proposed alternate shall be final.

**3. QUALIFICATIONS, CREDENTIALS AND REFERENCES.** The proposer shall provide a description of qualifications, credentials, experience, and resources as they relate to the provision of the proposal. The proposer shall also provide a list of clients for whom similar work has been performed within the last two years, including the firm, contact person, address, and phone number of each contact person.

**4. ADDENDUM TO SPECIFICATIONS.** Any substantive interpretation, correction or change of the proposal documents shall be made by written addendum. Unless otherwise specified the addendum will be posted to the City of Iowa City website:  
[www.icgov.org/default/apps/equipment/commodities.asp](http://www.icgov.org/default/apps/equipment/commodities.asp).

Interpretation, corrections or changes of the proposal documents made in any other manner shall not be binding. Such interpretations, corrections or changes shall not be relied upon by proposer. Any addenda shall be issued by the City within a reasonable time prior to the proposal date. It is the proposer's responsibility to visit this web-site to insure that they have received all important addenda or revisions to the Request for Proposal prior to bidding.

#### **D. SELECTION OF FIRM**

**1. REJECTION OF PROPOSALS.** The City reserves the right to accept or reject any or all proposals, to waive irregularities and technicalities, and to request resubmission. The City also reserves the right to reject the proposal of any proposer who has previously failed to perform properly or complete on time contracts of a similar nature, or a proposal from a proposer who, investigation shows, is not in a position to satisfactorily and timely perform the contract.

**2. SELECTION.** The City desires to enter into negotiations and ultimately reach an agreement with a Proposer who demonstrates the best combination of attributes to conduct the project, and who also negotiates a project cost with the City that is fair and reasonable. The City may conduct discussions with any proposer who has submitted a proposal to determine qualifications, for further consideration. Since the initial review by the City will be deemed preliminary in nature, the document and process will be deemed confidential until such time as the successful proposer is selected. Criteria for selection will include but not be limited to:

- The quality, availability, adaptability and life cycle costing of the commodities and/or service.
- Guarantees and warranties.
- Ability, capacity and skill to provide the commodities and/or service required within the specified time.
- Ability to provide future maintenance and service.
- Character, integrity, reputation, experience and efficiency.
- Quality of performance of previous and/or existing contracts.
- Previous and existing compliance with laws and ordinances relating to contracts with the City and to the proposer's employment practices.
- Whether the proposer is in arrears to the City, in debt on a contract or is a defaulter on surety to the City.
- If reasonable doubts arise as to proposer's solvency, the City reserves the right to require financial information sufficient to show solvency and/or require a performance bond.
- Such other relevant information as may be secured by the City.
- Cost estimate; the City is not required to accept the proposal with the lowest cost estimate.

**Once the City has reached an agreement with the Proposer, a purchase order will be issued to the awardee. The purchase order will define the conditions of the contract between the City and the Contractor selected to receive the award.**

- 3. CORRECTIONS TO SUBMITTED PROPOSALS.** Any changes that are made to this proposal using correction fluid, writing utensils, etc. before submission must be dated and initialed in each area that a change was made.
- 4. PRICING REQUIREMENTS.** All pricing submitted by the bidder shall be indicated in both words and figures. (Ex. \$200.50, Two hundred dollars and fifty cents).
- 5. PRESENTATIONS.** When required and based on an evaluation of proposals submitted, the City may select finalists who will be required to participate in interviews, including key personnel designated for the proposal, and to make presentations regarding their qualifications and their ability to furnish the required service to best serve the needs of the City.
- Formal presentations will be scored and evaluated by a committee. The evaluation committee will make a recommendation to the City Manager and if required, to the City Council for final approval. Nothing in the proposal can obligate the City to enter into a contract.
- 6. LOCAL PURCHASES.** Unless otherwise specified, cost and other considerations being equal, local firms (i.e. an office in Iowa City) shall be given first consideration for the project.
- 7. FEDERAL TRANSIT FUNDS.** Purchases utilizing Federal Transit funds are not eligible for local or state purchase consideration as described above in D.6.
- 8. ERRORS IN PROPOSAL.** Any ambiguity in any proposal as a result of omission, error, lack of clarity or non-compliance by the proposer with specifications, instructions and conditions shall be construed in the light most favorable to the City. Changes in proposals shall be initialed and dated.

## **E. GENERAL CONTRACT PROVISIONS**

- 1. CONTRACT AWARD.** Upon City's selection and satisfactory negotiation between City and Proposer on the work to be performed, a written award in the form of a Purchase Order, contract or other instrument shall result in a binding contract without further action by either party. The contract shall be on forms provided by the City; or if the proposer's contract document is used, the City reserves the right to modify any document to conform to the request for proposal and to do so in the light most favorable to the City.
- 2. INSURANCE.** Current Certificate of Insurance in the amounts specified shall be on file with the City before work can commence.
- 3. AVAILABILITY OF FUNDS.** A contract shall be deemed valid only to the extent of appropriations available to each project. The City's extended obligation on these contracts which envision extended funding through successive fiscal periods shall be contingent upon actual appropriation for the following fiscal year.
- 4. CONTRACT ALTERATIONS.** No alterations or variables in the terms of a contract shall be valid or binding upon the City unless authorized in writing by both parties.
- 5. SUBLETTING OF CONTRACT.** Proposer shall not assign, transfer, convey, sublet or otherwise dispose of the contract or their right, title or interest therein, or their power to execute such contract to any other person, firm or corporation without the prior written consent of the City, but in no case shall such consent relieve the Proposer from their obligations, or change the terms of the contract.
- 6. CONTRACT PERIOD.** Contract shall remain in force for the full specified period and until all services have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall be met, unless:
- a. Extended upon written authorization of the City and accepted by Contractor, for a period negotiated and agreed upon by both parties, when in the best interest of the City.
  - b. Terminated due to default, as described below.

**7. DEFAULT.** The contract may be cancelled or annulled by the City in whole or in part by written notice of default to the Proposer upon non-performance, violation of contract terms, delivery failure, bankruptcy or insolvency, or the making of an assignment for the benefit of creditors. The City reserves the right to grant Contractor a specified cure period during which to cure or remedy the default, which cure period shall be included in the written notice of default. If default is not cured within the specified time, City reserves the right, but is not obligated to, extend the cure period or City may deem the Contract terminated without further notice. In either event, the defaulting Contractor (or his/her surety) shall be liable to the City for cost to the City in excess of the defaulted contract price. Lack of knowledge by the Contractor will in no way be a cause for relief from responsibility.

If the Contract is terminated, an award may then be made to the next qualified proposer; or when time is of the essence, services may be contracted in accordance with Emergency procedures.

**8. DELIVERY FAILURES.** Failure of a Contractor to provide commodities and/or service within the time specified, unless extended in writing by the City, or failure to replace rejected commodities and/or service when so directed by the City shall constitute delivery failure. When such failure occurs the City reserves the right to cancel or adjust the contract, whichever is in the best interest of the City. In either event, the City may purchase in the open market commodities and/or service of comparable worth to replace the articles of service rejected or not delivered. On all such purchases, the Contractor shall reimburse the City, within a reasonable time specified by the City, for any expense incurred in excess of contract prices, or the City may deduct such amount from monies owed the Contractor. If the contract is not cancelled, such purchases shall be deducted from contract quantities. The City reserves the right to accept commodities and/or service delivered which do not meet specifications or are substandard in quality, subject to an adjustment in price to be determined by the City.

**9. FORCE MAJEURE.** The Contractor shall not be liable in damages for delivery failure when such failure is the result of fire, flood, strike, act of God, act of government, act of an alien enemy or any other circumstances which, in the City's opinion, is beyond the control of the Contractor. Under such circumstances, however, the City may at its discretion cancel the contract.

**10. INDEMNITY.** The Proposer shall indemnify, defend and hold harmless the City of Iowa City and its officers, employees and agents from any and all liability, loss, cost, damage, and expense (including reasonable attorney's fees and court costs) resulting from, arising out of, or incurred by reason of any claims, actions, or suits based upon or alleging bodily injury including death, or property damage rising out of or resulting from the Proposer's operations under this Contract, whether such operations be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either.

Proposer is not, and shall not be deemed to be, an agent or employee of the City of Iowa City.

Responsibility for Damage Claims - It is specifically agreed between the parties executing this contract that it is not intended by any of the provisions of any part of the contract documents to create in the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this contract. It is understood that no subcontractor is a third party beneficiary to any contract between the Contracting Authority and the prime Contractor. Nothing in any special provision or any supplemental specification shall be construed as eliminating or superseding the requirements of this section.

Proposer further agrees to:

a. Save the City, its agents and employees harmless from liability of any nature or kind for the use of any copyright or non-copyright composition, secret process, patented or unpatented invention, article, apparatus, or appliance, including any device or article forming a part of the apparatus or appliance of which the Proposer is not the patentee, assignee, licensee or owner, furnished or used in the performance of the contract.

b. Obtain all permits and licenses required by city, state and federal governments and pay all related fees. The Proposer shall also comply with all laws, ordinances, rules and regulations of the City, State of Iowa and the Federal Government.

**11. ANTI-DISCRIMINATION.** Proposer shall not discriminate against any person in employment or public accommodation because of race, religion, color, creed, gender identity, sex, national origin, sexual orientation, mental or physical disability, marital status or age. "Employment" shall include but not be limited to hiring, accepting, registering, classifying, promoting, or referring to employment. "Public accommodation" shall include but not be limited to providing goods, services, facilities, privileges and advantages to the public.

## **SECTION IV. LOCATIONS AND MAINTENANCE REQUIREMENTS**

Listed below are the locations included in this contract and the maintenance requirements for each location.

The list of locations and the required maintenance listed below does not guarantee that all of the locations will be awarded to a Contractor or that the City will require maintenance as proposed by the Contractor. The City reserves the right to exercise its judgment regarding the frequency of visits as well as the services requirement for each location.

### **A. Mow/Trim Locations**

The vendor is required to provide a pricing plan for a seven (7) day time frame between mowing and trimming and a ten (10) day timeframe between mowing and trimming, and a recommended start date at the following locations:

1. Shamrock Place
2. 3300-3312 Washington St. (4 townhouses)
3. 2721-2727 Muscatine Ave. (2 – 4 plexes)
4. 333 S. Lucas St. A and B units (1 duplex)
5. 608 Eastmoor – vacant lot
6. Circle on Indigo Ct.
7. Vacant Units  
Units that become vacant will be quoted on an individual basis. The City reserves the right to procure the services from another Contractor based on the quote submitted or if the Contractor is unavailable to perform services on the vacant unit(s).

### **B. Trim Shrub Locations**

The vendor will be required to provide a recommendation and pricing plan for trimming shrubs at the following locations. The vendor's recommendation must include the pricing per location per visit, the number of recommended visits, and the timeframe for visits.

1. Shamrock Place
2. 3300-3312 Washington St. (4 townhouses)
3. 2721-2727 Muscatine Ave. (2 – 4 plexes)

### **C. Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

The vendor will be required to provide a recommendation and pricing plan for fertilizing at the following locations. The vendor's recommendation must include the pricing per location per visit, the number of recommended visits, the timeframe for visits, and a description of the recommended services for each visit. Immediately upon completion of fertilization, the Contractor must identify the area fertilized by posting a sign(s) for the safety of the general public.

1. Shamrock Place (including Parking Island)
2. 3300-3312 Washington St. (4 townhouses)
3. 2721-2127 Muscatine Ave. (2 – 4 plexes)
4. Circle on Indigo Ct.

**C. Fertilization and Weed Control Locations - continued (includes lawn and foundation plantings areas)**

The vendor will be required to provide a recommendation and pricing plan for fertilizing at the following locations. The vendor's recommendation must include the pricing per location per visit, the number of recommended visits, the timeframe for visits, and a description of the recommended services for each visit. Immediately upon completion of fertilization, the Contractor must identify the area fertilized by posting a sign(s) for the safety of the general public.

5. 2511 Aster Ave
6. 2418 Aster Ave.
7. 2457 Aster Ave.
8. 2543 Aster Ave.
9. 2622 Indigo Ct.
10. 2631 Indigo Ct.
11. 2637 Indigo Ct.
12. 2646 Indigo Ct.
13. 2655 Indigo Ct.
14. 2661 Indigo Ct.
15. 2548 Indigo Dr.
16. 2550 Nevada Ave.
17. 2551 Nevada Ave.
18. 2351 Whispering Meadow Dr.
19. 2357 Whispering Meadow Dr.
20. 2363 Whispering Meadow Dr.
21. 2401 Whispering Meadow Dr.
22. 2452 Whispering Meadow Dr.
23. 2611 Whispering Meadow Dr.
24. 2437 Whispering Prairie Ave.
25. 2507 Whispering Prairie Ave.
26. 2622 Whispering Prairie Ave.
27. 2630 Whispering Prairie Ave.
28. 2640 Whispering Prairie Ave.
29. 2650 Whispering Prairie Ave.

**D. Mulch Installation**

When required, the City will contact the vendor to provide mulch installation for the following locations. The vendor must submit a price per bag with installation included.

1. Shamrock Place
2. 3300-3312 Washington St. (4 townhouses)
3. 2721-2727 Muscatine Ave. (2 – 4 plexes)

**SECTION V. REFERENCES**

The proposer must provide a minimum of three references from past and present clients for projects similar in scope to this project including the company or agency's name and address, the name, title, and phone number of each reference. The City reserves the right to contact each reference to assist with the evaluation of the submitted proposals.

- 1.) Company Name: \_\_\_\_\_  
Company Address: \_\_\_\_\_  
Company Contact: \_\_\_\_\_  
Title of Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_
  
- 2.) Company Name: \_\_\_\_\_  
Company Address: \_\_\_\_\_  
Company Contact: \_\_\_\_\_  
Title of Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_
  
- 3.) Company Name: \_\_\_\_\_  
Company Address: \_\_\_\_\_  
Company Contact: \_\_\_\_\_  
Title of Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

**Note: Additional references may be included with the submitted proposal.**

**SECTION VI. PRICING AND COMPANY INFORMATION FORM**

All equipment, tools, material, labor, travel and other resources required for successful completion of the work must be included in the pricing listed below. Any fees not included in the pricing listed below will be the responsibility of the vendor.

The list of locations and the required maintenance listed below does not guarantee that all of the locations will be awarded to a Contractor or that the City will require maintenance as proposed by the Contractor. The City reserves the right exercise its judgment regarding the frequency of visits as well as the services requirement for each location.

**A. Mow/Trim Locations**

The vendor is required to provide a pricing plan for a seven (7) day time frame between mowing and trimming and a ten (10) day timeframe between mowing and trimming, and a recommended start date at the following locations:

		<u>7 Days</u>	<u>10 days</u>
1.	Shamrock Place	\$_____per visit	\$_____per visit
	Start Date:	_____	
2.	3300-3312 Washington St. (4 townhouses)	\$_____per visit	\$_____per visit
	Start Date:	_____	
3.	2721-2727 Muscatine Ave. (2 – 4 plexes)	\$_____per visit	\$_____per visit
	Start Date:	_____	
4.	333 S. Lucas St. A and B units (1 duplex)	\$_____per visit	\$_____per visit
	Start Date:	_____	
5.	608 Eastmoor – vacant lot	\$_____per visit	\$_____per visit
	Start Date:	_____	
6.	Circle on Indigo Ct.	\$_____per visit	\$_____per visit
	Start Date:	_____	
7.	Vacant Units		
	Units that become vacant will be quoted on an individual basis. The City reserves the right to procure the services from another Contractor based on the quote submitted or if the Contractor is unavailable to perform services on the vacant unit(s).		

**B. Trim Shrub Locations**

The vendor will be required to provide a recommendation and pricing plan for trimming shrubs at the following locations. The vendor’s recommendation must include the pricing per location per visit, the number of recommended visits, and the timeframe for visits.

- 1. Shamrock Place \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Start Date & Timeframe for Visits \_\_\_\_\_
  
- 2. 3300-3312 Washington St. (4 townhouses) \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Start Date & Timeframe for Visits \_\_\_\_\_
  
- 3. 2721-2727 Muscatine Ave. (2 – 4 plexes) \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Start Date & Timeframe for Visits \_\_\_\_\_

**C. Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

The vendor will be required to provide a recommendation and pricing plan for fertilizing at the following locations. The vendor’s recommendation must include the pricing per location per visit, the number of recommended visits, a description of the recommended services for each visit, and a start date. Immediately upon completion of fertilization, the Contractor must identify the area fertilized by posting a sign(s) for the safety of the general public.

- 1. Shamrock Place (including Parking Island) \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Recommended Services for Each Visit & Start Date:  
 \_\_\_\_\_  
 \_\_\_\_\_
  
- 2. 3300-3312 Washington St. (4 townhouses) \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Recommended Services for Each Visit & Start Date:  
 \_\_\_\_\_  
 \_\_\_\_\_

**Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

3. 2721-2127 Muscatine Ave. (2 – 4 plexes) \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

4. Circle on Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

5. 2511 Aster Ave \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

6. 2418 Aster Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

7. 2457 Aster Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

**Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

8. 2543 Aster Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

9. 2622 Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

10. 2631 Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

11. 2637 Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

12. 2646 Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

**Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

13. 2655 Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

14. 2661 Indigo Ct. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

15. 2548 Indigo Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

16. 2550 Nevada Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

17. 2551 Nevada Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

**Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

18. 2351 Whispering Meadow Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

19. 2357 Whispering Meadow Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

20. 2363 Whispering Meadow Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

21. 2401 Whispering Meadow Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

22. 2452 Whispering Meadow Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

**Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

23. 2611 Whispering Meadow Dr. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

24. 2437 Whispering Prairie Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

25. 2507 Whispering Prairie Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

26. 2622 Whispering Prairie Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

27. 2630 Whispering Prairie Ave. \$\_\_\_\_\_per visit  
Number of Visits: \_\_\_\_\_  
Recommended Services for Each Visit & Start Date:  
\_\_\_\_\_  
\_\_\_\_\_

**Fertilization and Weed Control Locations (includes lawn and foundation plantings areas)**

28. 2640 Whispering Prairie Ave. \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Recommended Services for Each Visit & Start Date:  
 \_\_\_\_\_  
 \_\_\_\_\_

29. 2650 Whispering Prairie Ave. \$\_\_\_\_\_per visit  
 Number of Visits: \_\_\_\_\_  
 Recommended Services for Each Visit & Start Date:  
 \_\_\_\_\_  
 \_\_\_\_\_

**D. Mulch Installation**

When required, the City will contact the vendor to provide mulch installation for the following locations. The vendor must submit a price per bag with installation included.

- 1. Shamrock Place \$\_\_\_\_\_per bag, including installation
- 3. 3300-3312 Washington St. (4 townhouses) \$\_\_\_\_\_per bag, including installation
- 3. 2721-2727 Muscatine Ave. (2 – 4 plexes) \$\_\_\_\_\_per bag, including installation

**EXCEPTIONS/ DEVIATIONS** to this Request for Bid shall be taken below. If adequate space is not provided for exceptions/deviations, please use a separate sheet of paper. **If your company has no exceptions/deviations, please write "No Exceptions" in the space below. If you state no exceptions, you may not add your company's terms and conditions or any other documents to your submitted bid or any submittals after the bid due date.**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Designated person(s) who can be contacted for information during the period of evaluation and for prompt contract administration upon award of the contract. Provide the following information:

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

Phone Number: \_\_\_\_\_

The undersigned proposer, having examined and determined the scope of this Request for Proposal, hereby proposes to provide the required labor, services and equipment and to perform the work as described in the proposal documents and to do all work at the prices set forth within.

The undersigned proposer states that this proposal is made in conformity with the specifications and qualifications contained herein. In the event that there are any discrepancies or differences between any conditions of the vendor's proposal and the Request for Proposal prepared by the City of Iowa City, the City's Request for Proposal shall prevail.

The undersigned proposer certifies that this proposal is made in good faith and without collusion or connection with any other person or persons bidding on the project.

**Name of Firm:** \_\_\_\_\_

**Authorized Representative:** \_\_\_\_\_

**Signature of Representative:** \_\_\_\_\_

**Title of Authorized Representative:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Fax Number:** \_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_

**Date Signed:** \_\_\_\_\_

**Addenda Form**

The undersigned hereby acknowledges receipt of the following applicable addenda:

Addenda Number	Date
_____	_____
_____	_____

# Certifications and Representations of Offerors

## Non-Construction Contract

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

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offers to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

### 1. Contingent Fee Representation and Agreement

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

- (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.

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

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

### 2. Small, Minority, Women-Owned Business Concern Representation

The bidder/offers 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 small business concern. "Women-owned," as used in this provision, means a small 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.
- (c)  is,  is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned 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)

- |   |   |
|---|---|
| <input type="checkbox"/> Black Americans    | <input type="checkbox"/> Asian Pacific Americans  |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans   |
| <input type="checkbox"/> Native Americans   | <input type="checkbox"/> Hasidic Jewish Americans |

### 3. Certificate of Independent Price Determination

(a) The bidder/offers certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offers or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offers, directly or indirectly, to any other bidder/offers or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offers to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

- (1) Is the person in the bidder/offers'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/offers's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offers's organization);  
(ii) 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.

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

#### 4. Organizational Conflicts of Interest Certification

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

(d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

#### 5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

#### 6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

#### 7. Offeror's Signature

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

\_\_\_\_\_  
Signature & Date:

\_\_\_\_\_  
Typed or Printed Name:

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

# General Conditions for Non-Construction Contracts

U.S. Department of Housing and Urban  
Development  
Office of Public and Indian Housing  
Office of Labor Relations  
OMB Approval No. 2577-0157 (exp. 12/31/2011)

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

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

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

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**Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000**  
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**1. Minimum Wages**

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

**2. Withholding of funds**

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

**3. Records**

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

**4. Apprentices and Trainees**

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

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

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

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

## 5. Disputes concerning labor standards

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

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD).

- (ii) The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations.

- (iii) The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

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

## 6. Contract Work Hours and Safety Standards Act

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

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

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

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

#### **7. Subcontracts**

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

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

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