

# **INVITATION FOR BIDS**

## **HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO "HUD" EVAPORATIVE COOLER REPLACEMENT AT VARIOUS PUBLIC HOUSING LOCATIONS IN THE CITY OF SAN BERNARDINO, CA Project Number: #PC648**

The Housing Authority of the County of San Bernardino (HACSB) is accepting sealed bids from licensed Trade Contractors for the following Bid Packages "BP" for the replacement of evaporative coolers at various multi-family Public Housing developments in San Bernardino, California, totaling approximately 34 rental units. Required services include all labor and material for the replacement of evaporative coolers.

NOTE: Funding for this project is through the American Recovery and Reinvestment Act of 2009 (ARRA) and is subject to all ARRA requirements.

Bidders are required pursuant to California Business and Professions Code 7028.15 to hold a valid State Contractor's License as classified in Public Contract Code Section 3300 at the time the contract is awarded. Bidders shall conform to California Business and Professions Code 7059 for Specialty Contractor's Licensing Provisions. Certification is contained in the Bid Form. Prime Bidders must possess the following classification(s) of contractor's license for each Bid Package listed below:

<b>HACSB PROJECT NUMBER</b>	<b>LICENSE</b>	<b>TRADE</b>	<b>ESTIMATE</b>
#PC648	B or C-20	EVAPORATIVE COOLER(HVAC)	\$50,000

The Prime Contractor is responsible for the performance and completion of all items in the Scope of Work. The Prime Contractors shall coordinate all work and shall cooperate with the Construction Manager as necessary to ensure progress and timely completion of the Work.

Davis-Bacon Prevailing Wages will be required to be paid for all work performed under this Invitation for Bids. Current Wage Determinations may be obtained directly from the website at <http://www.gpo.gov/davisbacon/>. It shall be mandatory upon the Contractor to whom any contract is awarded and upon any Subcontractor under him to pay not less than said specified prevailing rates to all laborers and mechanics employed by them in the execution of the contract.

Interested individuals who would like to participate in the bidding process can visit our website at [www.hacsb.com](http://www.hacsb.com) to obtain the Invitation for Bid. Copies of all specifications, Scope of Work, project manual, and required forms are available from the agency website.

**There will be a Pre-Bid Conference & Job Walk on Monday, February 13, 2011 at 10:00 am; at the job site 1315 Davidson Street, San Bernardino, CA 92411.**

**All bids will be due and publically opened at the Housing Authority of the County of San Bernardino at 715 E. Brier Drive, San Bernardino CA 92408 by Wednesday, February 29, 2012 at 2:00 PM.**

The work shall consist of the provision of all permits, materials, labor and equipment to perform the complete work as identified in the Scope of Work for this bid. Contractor will be responsible for following all items addressed in the Scope of Work, specifications, and all applicable laws, codes, regulations and any manufacturer's recommendations.

**No oral requests for clarification** will be accepted. All such requests must be in writing by email, mail, fax or hand delivery and submitted to Procurement and Contracts Department, attn.: Marsha Zeller, to [mzeller@hacsb.com](mailto:mzeller@hacsb.com) no later than **2:00 PST on February 15, 2012**. All questions and clarifications will be answered in written addendum.

It is the HACSB's intent to award a single contract to the lowest responsive bidder for **each Bid Package (BP#)/Trade**, which submitted the lowest "Bid by Trade/Bid Package (BP#)" for the scope of all the work at the designated sites.

It is the contractor's responsibility to submit all necessary documents included with the bid package including the use of the supplied bid bond form. Bid Guarantee (for contracts in excess of \$25,000) by the bidder in accordance with the Instructions to Bidders for Contracts, which states: "All bids must be accompanied by a negotiable bid guarantee, which shall be not less than five percent (5%) of the amount of the bid". The Bid Guarantee shall be submitted by each bidder with the bid. Use of a standard surety company's form for the Bid Bond is permitted.

**Timetable**

<u>Event</u>	<u>Date</u>
Request for Proposal Released	January 31, 2012
Job Walk	February 13, 2012 at 10:00 a.m.
Due Date for Questions	February 15, 2012 at 2:00 p.m.
Posting of Responses for Questions	February 16, 2012
Proposals Due	February 29, 2012 at 2:00 p.m.
Bid Review	Week of March 5, 2012
Award Contract	March 2012

**Buy American Certification Required**

The contractor agrees to comply with section 1605 of the American Recovery and Reinvestment Act of 2009 (ARRA), which provides that ARRA funds appropriated under this Act may not be obligated unless steel, iron, and manufactured goods used in ARRA-funded projects are produced in the United States, unless a waiver has been granted by the U.S. Department of Housing and Urban Development (HUD) or the head of a Federal Department or Agency or the product is subject to a waiver. Waiver requests must be in accordance 41 U.S.C. 431 and subpart 25.603 FAR.

All bidders or offerors must submit to HACSB with their proposals the Buy American Certification with all bids or offers on ARRA funded contracts, except those subject to waiver. Bids or offers that are not accompanied by a completed Buy American Certification will be rejected as non-responsive.

Non-compliance with the Buy American requirements, if deemed sufficiently serious or fraudulent, shall result in appropriate contractual remedies, such as termination of the contract for default, debarment or suspension of the contractor, or criminal investigation.

The following items are statutory requirements for each bidder and are to be submitted with the bid. All of the following are included in the Bid Package. Signatures, and/or initials, are required to be "wet" originals. If any of the required items are not submitted, incomplete, or submitted on any other form other than those provided, the bid will be considered non-responsive and will be disqualified. All of these forms are available on the HACSB website at [www.hacsb.com](http://www.hacsb.com) on the "Business" page under "Procurement Forms".

1. Representations, Certifications, and Other Statements of Bidders (HUD 5369-A).
2. Statement of Bidder's Qualifications
3. Designation of Subcontractors
4. Certification of Bidder Regarding Status as a Section 3 Business concern.
5. Certification of Bidder Regarding Equal Employment Opportunity.
6. Certification of Bidder Regarding Minority/Women's Business Enterprise.
7. Corporate Certification (applicable to corporations only)
8. Buy American Certification (included in this bid document).
9. Minority Code Identification Form.
10. Non-collusive Affidavit Form.
11. Bid Proposal Form.
12. Bid Guarantee (for contracts in excess of \$25,000) by the bidder in accordance with the Instructions to Bidders for Contracts, which states: "All bids must be accompanied by a negotiable bid guarantee, which

shall be not less than five percent (5%) of the amount of the bid". The Bid Guarantee shall be submitted by each bidder with the bid. Use of a standard surety company's form for the Bid Bond is permitted.

The following items are required of the apparent low bidder **once determined**:

1. Valid State of California contractor's License, Class B or appropriate specialty contractor's license
2. Certificate of Worker's Compensation Insurance
3. Certificate of Liability Insurance, minimum policy coverage of \$1,000,000.00 with the HACSB named as an additional insured on the policy.
4. Certificate of Automobile Liability Insurance, minimum policy coverage of \$500,000.00 with the HACSB named as an additional insured on the policy.
5. Contractor's Certification of Compliance with the Davis/Bacon and Related Acts Requirements.
6. Certification of Understanding and Authorization.
7. Agreement Certification
8. Stipulation of Lien.
9. Warranty/Guarantee.
10. 100 % Performance/Payment Bond.

Bidders shall inform all proposed subcontractors that they will be required to submit similar items within 72 hours if requested by HACSB.

Bidder's attention is directed to the provision for Equal Employment Opportunity and payment for all persons of not less than the minimum wages as set forth in the attached Federal Wage Requirements. This is a Davis Bacon project and Federal Regulations will be enforced.

No bid shall be withdrawn for a period of one hundred twenty (120) days subsequent to the opening of the bids without the consent of the HACSB.

Additional requirements may be imposed as necessary to satisfy all statutory requirements which may attach to the work needed to be performed. The HACSB reserves the right to reject any or all bids, to accept the bid best suited to its needs, or to waive any non-statutory informality in the bidding.

Owner/Project Manager                      Housing Authority of the County of San Bernardino  
715 East Brier Drive  
San Bernardino, CA 92408  
John Borgardt (909) 890-0644 x 2739  
[jborgardt@hacsb.com](mailto:jborgardt@hacsb.com)

**SPECIFICATIONS AND SCOPE OF WORK**  
**EVAPORATIVE COOLERS**

**INTRODUCTION**

The Housing Authority of the County of San Bernardino is seeking licensed contractor(s) to provide and install new Evaporative Coolers at the following addresses in the City of San Bernardino:

Address	1077-1079 11th St.	1279-1299 Turrill	630-632 J St.	740-756 7th St	755-765 8th St	1315-1325 Davidson	2165 Mill St	
Type of unit	Site 1	Site 2	Site 3	Site 4	Site 5	Site 6	Site 7	Unit Totals
2 Bed							10	10
3 Bed	2	2	2	2	1	2		11
4 Bed				4	4	3		11
3 ADA					1			1
4 ADA						1		1
Site Total	2	2	2	6	6	6	10	34

**INVITATION TO BID AND INSTRUCTIONS**

**PART 1 – GENERAL**

**1.0 SUMMARY**

A. Work included in this section:

1. Invitation for Bids
2. Instructions for Bids
3. Additional Instructions for Bids
4. Required forms

**2.0. INSTRUCTIONS TO BIDDERS**

A. The Owner has indicated an intention to use their own copy of “Invitation for Bids”, “Additional Instructions to Bidders”, “Bid Proposal Forms” and other forms and documents as listed in the “Invitation to Bid” letter. These documents are located on the HACSB website:

<http://www.hacsb.com/procurement.htm>. All persons intending to provide goods or services in connection with the Work are advised to read and understand these documents prior to proceeding.

B. Bid proposal forms for the specific trades being solicited are included in the Invitation to Bid. These sealed bid forms must be submitted with the Contractor’s bid.

C. The Contractor is encouraged to read and understand the “Department of Labor Wage Determinations Link”.

D. The following forms listed below are not required nor requested to be submitted at this time. However, the Contractor should be familiar with the forms and the requirements if selected for award:

1. HUD Form 51000 Schedule Amounts for Contract Payments
- 2 HUD Form 51001 Periodic Estimate for Partial Payment

E. Electronic Web submittal of Labor Compliance Reports:

1. Each contractor and every lower-tier subcontractor and supplier may be required to submit certified payrolls and labor compliance documentation electronically at the discretion of and the manner specified by HACSB.
2. Electronic submittal will be a web-based system, accessed on the World Wide Web by a web browser. Each contractor and subcontractor will be given a Log On identification and password to access the HACSB reporting system.

3. Use of the system may entail additional data entry of weekly payroll information including; employee identification, labor classification, total hours worked and hours worked on this project, wage and benefit rates paid, etc. The contractor's payroll and accounting software might be capable of generating a 'comma delimited file' that will interface with the software.
4. This requirement will be 'flowed down' to every lower-tier subcontractor and vendor required to provide labor compliance documentation.

## **REPRESENTATION AND CERTIFICATIONS**

### **PART 1 - GENERAL**

#### **1.0 SUMMARY**

- A. The Contractor shall make a good faith effort to comply with the following contract requirements.
  1. Good Faith Effort on hiring Minorities and Women
  2. Good Faith Effort on hiring Residents per SECTION 3 AFFIRMATIVE ACTION PLAN.  
Section 3 is included in this Project Manual.
- B. Although the HACSB does not have specific goals for this project, the agency must meet overall goals.
- C. The Contractor shall coordinate with Janice Simmons (909) 890-9533 x 3568 in regards to the hiring of residents.

#### **2.0 INSTRUCTIONS TO BIDDERS**

- A. The Owner has indicated an intention to use their own documents for this Work. Copies of these documents are available from Owner. All persons intending to provide goods or services in connection with the Work are advised to read and understand these documents prior to proceeding.

#### **3.0 SECTION 3 AFFIRMATIVE ACTION PLAN**

##### **A. POLICY**

Consistent with, Section 3 of the HUD Act of 1968 and Resident-Owned Business Contracting, it is the policy of the HACSB that all feasible efforts shall be made to ensure that individuals or firms located in or owned in substantial part by persons residing in the area of the HACSB projects are used when possible.

##### **Definitions:**

1. A "Section 3 business concern" is as defined under 24 CFR Part 135.
2. A "labor surplus area business" is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in 20 CFR Part 654, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.
3. "Goal" means a numerically expressed objective that HACSB and contractors are required to make efforts to achieve.
4. "Contract" includes any agreement to provide labor, services, material, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for and on behalf of the HACSB.
5. A "resident-owned business" is any business concern that is 51% owned and controlled by public housing residents.

##### **B. DIVERSITY GOALS**

The Board of Commissioners has established the following goals to promote diversity in its construction contracting and other procurement actions. These goals apply to the overall dollar amount expended each year by the HACSB:

1. Section 3 Hiring and Subcontracting: a 30% aggregate involvement of bona-fide Section 3 eligible employees and Section 3 Business Concerns subcontracting in procurement activities.
2. Resident-Owned Businesses: There is no goal for resident-owned businesses. A Resident-Owned Business is any business concern that is 51% owned and controlled by public housing residents. However, the HACSB will notify all residents' organization of procurements and shall use HUD-allowed alternative procurement process when contracting with businesses owned in substantial part by residents (resident-owned businesses) for public housing services, supplies, or construction. The alternative procurement process must comply with procedures and requirements as set forth in this Policy and HUD's procurement regulations at 24 CFR 85.36, except that solicitations are limited to resident owned businesses.

#### C. REQUIRED EFFORTS

Prime contractors, when subcontracting is anticipated, are required to take these positive steps, but shall not be limited to:

1. Including such firms, when qualified, on solicitation mailing lists;
2. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
5. Using the services and assistance of the United States Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
6. Utilizing the California Office of Small and Minority Business, the Minority Business Development Agency, and the Small Business Administration;
7. Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR Part 135 (Section 3 businesses).

#### D. HUD SECTION 3 REQUIREMENTS

The HACSB shall comply with Section 3 of the Housing Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992, regarding use of Section 3 certified businesses and Section 3 eligible individuals. HACSB shall provide a preference to Section 3 businesses in the award of contracts, regardless of funding source, as described below:

1. In awarding contracts based on bids (where price is the sole determining factor for award), HACSB will award contracts to the low bidder; provided however, if a Section 3 business' bid exceeds the low bid by no more than 10%, HACSB may award the contract to the Section 3 business at the price bid by the Section 3 business.
2. In awarding contracts based on proposals in which price is one factor in determining award, the evaluation criteria will provide for 20 points (out of 100) to be assigned to any qualified Section 3 business. This shall be established in the evaluation criteria. Qualified Section 3 businesses shall receive the maximum number of points authorized in this evaluation criterion.
3. Generally, HACSB will evaluate Section 3 businesses that have been certified by appropriate agencies, although, where appropriate, HACSB may also evaluate Section 3 businesses that it can verify from available information to meet the requirements to qualify as a Section 3 business.
4. A business may qualify as a Section 3 business if the business is owned by Section 3 qualified persons who live in the County of San Bernardino and who meet the prescribed income limitations based on family size.

5. A business may qualify as a Section 3 business if 30% or more of their permanent, full-time employees (core employees within the last 12 months) are Section 3 qualified persons who live in the County of San Bernardino and meet the prescribed income limitations based on family size.

6. A business may qualify as a Section 3 business based on a commitment to subcontract with other Section 3 businesses for more than 25% of the dollar amount of all subcontracts, as provided in 24 CFR 135.5. Such businesses shall be required to submit with their bid or proposal a plan describing how they will implement the subcontracting commitment. Prior to an award or selection by HACSB, the subcontracting plan shall be evaluated by HACSB to determine if it is reasonable and attainable. HACSB shall monitor the compliance of a selected Section 3 business with their subcontracting commitment. All solicitations and contracts shall include provisions for declaring a breach of contract for failure to meet the subcontracting commitment, and for assessing penalties or damages for such a breach.

<sup>1</sup> 24 CFR 135 contains more specific requirements regarding Section 3 requirements.

## **AGREEMENTS**

### **PART 1 – GENERAL**

#### **1.0 SUMMARY**

A. Work included IN THIS Section:

1.0 Sample Contract

B. Contractor shall comply with all HUD Forms as listed in the “Invitation to Bid”, “Additional Bid Instructions”, and the Sample Contract contained in this Section which forms the Agreement.

#### **2.0 INSTRUCTIONS TO BIDDERS**

A. The Owner has indicated an intention to use their own documents as part of the Contract Documents for this Work. Copies of these documents are available from the Owner. All persons intending to provide goods or services in connection with the Work are advised to read and understand these documents prior to proceeding.

#### **3.0 SAMPLE CONTRACT**

##### **CONTRACT FOR CONSTRUCTION**

(FOR CONSTRUCTION CONTRACTS GREATER THAN \$100,000)

**THIS CONTRACT FOR CONSTRUCTION AGREEMENT** (“Agreement”) is made as of

the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between -

\_\_\_\_\_ (“Contractor”), and the Housing Authority of the County of San Bernardino, a California nonprofit corporation (“HACSB”).

##### **RECITALS**

**WHEREAS**, HACSB is a nonprofit corporation in San Bernardino County, State of

California, committed to provide affordable and safe public housing for low and moderate income families; and

**WHEREAS**, Contractor has offered to provide certain services to HACSB, and HACSB wishes to retain Contractor for the provision of such services.

##### **OPERATIVE PROVISIONS**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Contractor and HACSB hereby agree as follows:

**ARTICLE 1. Description of Work.** Contractor will furnish all work, labor, tools, equipment, materials, supervision, scheduling, coordination, and contract administration (“Work”) necessary to construct and complete those certain improvements described on Exhibit “A”, attached hereto and incorporated herein by reference (“Work”), which Work shall be performed in compliance with the plans and specifications described on Exhibit “B”, attached hereto and incorporated

herein by reference ("Plans and Specifications"). The Work shall be performed in a good and workmanlike manner. In connection with the performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined).

**ARTICLE 2. Time of Completion.** Contractor shall commence the Work on or after the date specified in the written Notice to Proceed issued by HACSB, and shall fully complete all Work within Ninety Days (90) calendar days after the commencement date.

**ARTICLE 3. Price.** This is a firm Fixed Price Agreement as that phrase is defined in the General Conditions (as hereinafter defined). The price shall be \$\_\_\_\_\_. This amount is full consideration for this Agreement as written.

**ARTICLE 4. Payment.** Unless otherwise specified, Payment shall be made in accordance with and in the manner specified in the General Conditions.

**ARTICLE 5. Contract Documents.** This Agreement incorporates by reference all of the following documents (the "Contract Documents"):

1. General Conditions (form HUD 5370), attached hereto as Exhibit "C" and incorporated herein by reference.
2. Additional General Provisions, attached hereto as Exhibit "D" and incorporated herein by reference ("Additional Provisions").
3. Performance-Payment Bond ("Performance Bond"), attached hereto as Exhibit "E" and incorporated herein by reference.
4. Stipulation of Lien ("Stipulation of Lien"), attached hereto as Exhibit "F" and incorporated herein by reference.
5. Applicable prevailing wages determined by the United States Department of Labor pursuant to the Davis-Bacon Act. Information relating to the Davis-Bacon Act may be found at <http://www.gpo.gov/davisbacon/>.
6. All agreements, representations, warranties, covenants, and certifications of Contractor made in connection with the procurement of this Agreement.
7. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by reference. This Agreement is funded by the U.S. Department of Housing and Urban Development, and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>. For laws the County of San Bernardino, go to <http://www.sblawlibrary.org>.

**ARTICLE 6. Best Efforts.** Contractor shall perform its duties on premises approved by HACSB, during HACSB'S regular work days and normal work hours and warrants that it shall perform its services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Contractor acknowledges that HACSB has the right to review the services performed by Contractor and may in its reasonable business discretion, reject such services in writing.

**ARTICLE 7. No Conflicts.** HACSB acknowledges that Contractor has other business and personal interests, separate and apart from the services contemplated by this Agreement, and nothing in this Agreement is intended to preclude Contractor from devoting time and attention to such business and personal interests. HACSB further acknowledges that Contractor has the right to accept other engagements as long as said engagements do not represent a conflict of interest with respect to the Work or the obligations of Contractor to HACSB pursuant to this Agreement. In connection with Contractor's performance of the Work hereunder, Contractor represents that there exists no actual, potential or appearance of conflict arising out of Contractor's business and financial interests.

**ARTICLE 8. Limit of Engagement.** This Agreement does not and shall not be construed to create any partnership or agency whatsoever beyond the purposes set forth in Article 1 hereof.

Contractor shall not be deemed to be a partner, joint venturer, agent or legal representative of HACSB for any purpose, nor shall Consultant have any authority or power to act for, or to undertake any obligation or responsibility, on behalf of HACSB or corporations affiliated with HACSB, other than as expressly herein provided.

**ARTICLE 9. Responsibilities of HACSB.** If information, data, or documentation necessary to facilitate Contractor's performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Contractor. Should Contractor determine that a delay in its performance has occurred, which is solely attributable to a failure of HACSB, Contractor will promptly notify HACSB in writing.

**ARTICLE 10. Change Orders.** HACSB shall have the right, from time to time, to make changes to the Work by change order as set forth in the Contract Documents.

**ARTICLE 11. Return of HACSB Property.** All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Contractor's notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the

Work, or upon the earlier termination of this Agreement. Contractor hereby waives and assigns to HACSB all intellectual property or common law rights Contractor may develop in the Work. Contractor shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

**ARTICLE 12. Confidential Information.** HACSB agrees to make available to Contractor information that may be needed to perform the Work. Such information may include information

HACSB considers to be confidential. For purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Contractor shall be considered to be Confidential Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Contractor shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Contractor and who are specifically authorized by Contractor to perform the Work contemplated in this Agreement.

**ARTICLE 13. Performance Bond.** Contractor certifies that prior to its commencement of Work it shall provide to HACSB a written, fully executed Performance Bond, in substantially the form attached hereto as Exhibit "E", and incorporated herein by reference.

**ARTICLE 14. Indemnity; Hold Harmless.** Contractor agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the performance of the Work, the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Contractor shall reimburse HACSB for any expenditure, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Contractor shall defend any such suits at the sole cost and expense of Contractor with counsel selected by HACSB.

**ARTICLE 15. Compliance with Contract Documents.** Contractor shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control.

**ARTICLE 16. Warranty/Guarantee.**

a. Contractor warrants and guarantees that any work and/or materials supplied or installed in Contractor's performance of all contracts awarded and executed under this Agreement for HACSB will be done in accordance with the Plans and Specifications and that the Work, as installed, will fulfill the requirements of the Specifications. Contractor agrees to repair or replace any or all of its Work, together with any adjacent Work which may be displaced by so doing, that may prove to be defective in its workmanship or material within a period of two (2) years from the date of completion of the Project, except for ordinary wear and tear, unusual abuse or neglect on the part of HACSB.

b. Contractor's warranty in no way supersedes any manufacturer's warranty or guarantee for any equipment or material supplied, or process used in the installation. The full effect of all manufacturers' warranties voided by improper installation or process will be guaranteed by Contractor for the full life of the manufacturer's warranty.

c. In the event of Contractor's failure to comply with the conditions of this Article within a reasonable period of time as determined by HACSB and after being notified in writing, Contractor hereby authorizes HACSB to proceed to have said defect repaired and made good at Contractor's expense and will honor and pay the costs and charges therefore upon demand.

**ARTICLE 17. Superintendence by Contractor.** Contractor shall give his personal superintendence to the Work or have a competent superintendent, satisfactory to HACSB and/or the Architect, if any, on the Project at all times during progress with full authority to act for him.

**ARTICLE 18. Accident Prevention.** Contractor shall exercise proper precaution at all times for the protection of persons and property. The safety provisions of applicable law, building and construction codes shall be observed, and Contractor shall take or cause to be taken such additional safety and health measures as HACSB may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the State of California Construction Safety Orders (CCR Title 8, Chapter 4, Subchapter 4, as amended) and the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable laws.

**ARTICLE 19. Removal of Debris, Cleaning.** Contractor shall, daily or as directed during the progress of the Work on the Project, remove and properly dispose of the resultant trash, dirt and debris, and keep the premises reasonably clear.

**ARTICLE 20. Designation of Subcontractors.**

a. In compliance with the Subletting and Subcontracting Fair Practices Act (Chapter 2, Section 4100 et seq. Division 5, Title 1 of the Government Code of the State of California) and any amendments thereof, each bidder shall set forth: (a) the name and the location of the place of business of each subcontractor who will perform work or labor or render service to Contractor in or about the construction of the Project under this Agreement or a subcontractor licensed by the State of California who, under subcontract to Contractor, spatially fabricates and installs a portion of the Project according to the Plans and Specifications in an amount in excess of one-half of one percent of Contractor's total bid, and (b) the portion of the Work which will be done by each subcontractor.

b. If Contractor fails to specify a subcontractor or if Contractor specifies more than one subcontractor for the same portion of the Work performed for the Project in excess of one-half of one percent of Contractor's total bid, he shall be deemed to have agreed that he is fully qualified to perform that portion himself, and that he shall perform that portion himself.

c. Contractor shall not: (a) substitute any subcontractor, (b) permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by any one other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the Work on the Project in excess of one-half of one percent of Contractor's total bid as to which the original bid did not designate a subcontractor, except as authorized by HACSB.

d. Subletting or subcontracting of any portion of the Work on the Project in excess of one-half of one percent of Contractor's total bid as to which no subcontractor has been designated in the original bid shall only be permitted in cases of public record of HACSB wherein HACSB has set forth the facts constituting the emergency or necessity.

**ARTICLE 21. Stipulation of Lien.** Contractor certifies that all Work executed under this Agreement will be performed in accordance with the Agreement terms and there will be no claims of laborers or mechanics for unpaid wages arising out of the performance of said Agreement. In consideration of the payment under the terms of the Agreement, Contractor hereby does release HACSB from any and all claims arising from any contract awarded by this process. Contractor shall prepare and submit to HACSB, a written Stipulation of Lien, in substantially the form attached hereto as Exhibit "F", and incorporated herein by reference. The

Stipulation of Lien shall be recorded in the County Recorder's Office of San Bernardino County, California.

**ARTICLE 22. Assignment.** Neither the Agreement, nor any part thereof, nor moneys due or to become due there under may be assigned by Contractor without the prior written approval of HACSB.

**ARTICLE 23. Rights and Remedies of HACSB for Default.** In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

a. In addition to any other rights and remedies HACSB may have, HACSB may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.

b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by HACSB in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.

c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor therefore.

**ARTICLE 24. Termination.** In addition to the rights of Termination for Convenience of HACSB and Termination for Default set forth in the Contract Documents, HACSB may terminate this Agreement if Contractor should file a bankruptcy petition and/or be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency. HACSB may serve written notice upon Contractor of its intention to terminate the Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Contractor, and any such surety shall have the right to take over and perform Contractor's obligations pursuant to this Agreement; provided, however, that if such surety does not provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Contractor as may be on the site of the Work and necessary for the performance of the Work.

**ARTICLE 25. Notices.** All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested. **All notices sent pursuant to this Agreement shall be addressed as follows:**

**If to HACSB:**

Marsha Zeller, Procurement & Contracts Manager  
Housing Authority of the County of San Bernardino  
715 E. Brier Drive  
San Bernardino, CA 92408-2841

**If to Contractor:**

Notices will be deemed effective upon receipt or rejection only.

**ARTICLE 26. Complete Agreement.** This written Agreement is the final, complete and exclusive statement and expression of the agreement between HACSB and Contractor and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

**ARTICLE 27. Applicable Law/Venue.** This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

**ARTICLE 28. Severability; Headings.** If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

**ARTICLE 29. Interpretation.** Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

**ARTICLE 30. Counterparts.** This Agreement may be executed in multiple counterparts, and when so executed by each of the parties hereto shall constitute a single agreement binding upon all of the parties hereto.

**ARTICLE 31. Licensed Contractor.** Contractor represents and warrants that it is a licensed contractor in good standing with the California Contractors State License Board.

**IN WITNESS WHEREOF**, HACSB and Contractor have entered into this Agreement as of the Effective Date.

**CONTRACTOR**

By: (Affix seal if a corporation)

Name:

Its:

CERTIFICATE OF CORPORATE AUTHORITY

I, \_\_\_\_\_, certify that I am  
the \_\_\_\_\_ of the corporation named as Contractor herein;  
that \_\_\_\_\_ who signed this Agreement on  
behalf of Contractor, was then \_\_\_\_\_ of said  
corporation; that said Contract was duly signed for and in behalf of said corporation and  
its governing body and is within the scope of its corporate powers.

By:

Name:

Its:

Date:

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

By:

Name: Susan Benner

Its: President/CEO

Date:

## GENERAL CONDITIONS

### PART 1 – GENERAL

#### 1.0 SUMMARY

- A. A. The Contractor is hereby notified that the forms identified in the “Invitation to Bid”, the project plans, Project Manual, and specifications are a binding component of the contract.
- B. The HACSB desires to utilize a Construction Manager to facilitate and assist the HACSB’s Project Manager on this project. As such the following documents are modified as follows:
  - 1. HUD Form 5369A
    - a. Replace the words Architect, Engineer, or any combination thereof throughout with Construction Manager.
  - 2. “Special Conditions for the Contract for Construction”
    - a. Replace the words Architect, Engineer, or any combination thereof throughout with Construction Manager.
- C. HUD Form 5369
  - 1. Replace the words Architect, Engineer, or any combination thereof throughout with Construction Manager.
- D. HUD Form 5370
  - 1. Replace the words Architect, Engineer, or any combination thereof throughout with Construction Manager.
  - 2. The words Contracting Officer and HACBS Project Manager are considered one in the same.
  - 3. For each submittal, request for information (RFI), pay request, shop drawing, other approvals, amendment, extra work notice, clarification, or any other coordination with the HACSB Contracting Officer, these clauses are hereby modified to reflect the first point of contact for any submittal, coordination, request, approval, etc. is the Construction Manager and not the Contracting Officer.
  - 4. The HACSB is not responsible for any costs that the Contractor incurs if his / her direction is obtained from the Architect and not the HACSB’s Construction Manager.
  - 5. For each submittal, pay request, shop drawing, other approvals, amendments, extra work notice, clarification, or any other coordination as identified in this form, final approval or contract termination, or suspension shall be made by the HACSB’s Contracting Officer.
  - 6. Requests for meetings, progress schedules, testing, or other requests as identified as the rights of the Contracting Officer shall be deemed the same rights as the Construction Manager. The Contractor is not entitled to additional compensation for coordinating or complying with requests from the Construction Manager unless HUD Form 5370 allows such compensation when this same request or coordination are made by the Contracting Officer.

#### 2.0 CONTRACT MODIFICATION

- A. Requests for equitable adjustments or contract modifications shall first be submitted to the Construction Manager for approval. The time periods stated in HUD Form 5370 for submittal to the Contracting Officer are applicable to the time requirements for submittal to the Construction Manager.
- B. The Contractor is hereby notified that Contract Modifications shall only be made by the Contracting Officer. Approval by the Construction Manager of a Contractor’s request for equitable adjustment is not a binding Contract Modification and is only an intermediate step toward receiving such approval from the Contracting Officer.
- C. The Contractor is required to assert his rights for equitable adjustments per clause “29.

D. Changes of HUD Form 5370 to the Construction Manager within the time frames stated.

#### **1.4 USE OF PREMISES**

- A. General: Contractor shall have full use of premises for construction operations, including use of Project site, during construction period. Contractor's use of premises is limited only by Owner's right to perform work or to retain other contractors on portions of Project. Contractor shall coordinate with owner's representative to insure that the replacement of all windows and doors for each unit scheduled is fully completed by the end of working day.
- B. Use of Site: Limit use of premises to work in areas indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.
  - 1. Driveways and Entrances: Keep driveways and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
    - a. Schedule deliveries to minimize use of driveways and entrances.
    - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.
  - 2. Limited Access to the Interior of any Unit. The Contractor shall coordinate with the Construction Manager when access to the interior of any unit is required.

#### **1.5 WORK RESTRICTIONS**

- A. Nonsmoking Building: Smoking is not permitted within the building or within 25 feet of entrances, operable windows, or outdoor air intakes.

#### **1.6 SPECIFICATION FORMATS AND CONVENTIONS**

- A. Specification Format: The Specifications are organized into Divisions and Sections using the 32-division format and CSI/CSC's "Master Format" numbering system.
  - a. Division 01: Sections within Division 01 govern the execution of the Work for all other Sections in these Specifications.
- B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
  - a. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred as the sense requires. Singular words shall be interpreted as plural and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
  - b. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
    - i. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.
- C. All Trade Contracts awarded include full compensation and consideration for supplying all permits, materials, labor and equipment, payment of disposal fees, and provisions of portable sanitary facilities as required to perform the work and to meet full contract compliance. No other additional compensation is included.

#### **PART 2 - PRODUCTS**

- A. Products or materials specified in this manual is understood to be “or equal” whether specifically stated or not in each section.
- B. All products or materials to be used on the job shall be submitted to the Construction Manager within 10 days of the notice to proceed for approval.
- C. The use of lead base paint products is prohibited.

## **EVAPORATIVE COOLERS**

### **PART 1 – GENERAL**

#### **1.1. SUMMARY**

- A. Window or roof mounted, horizontal or vertical discharge, factory assembled and tested.
- B. See equipment schedule for capacity and duty of evaporative cooler to be provided and plans for layout details.
- C. All electrical components shall carry UL listing and comply with the State of California Electrical Code.
- D. Units shall be as manufactured by “Breeze Air Products” or approved equal.

#### **1.2 DESIGN STANDARDS:**

- A. Unit shall be rated in accordance with AMCA Standard 210.
- B. Cooler cabinets, blower housings and blower wheels shall be protected against “rust-out” for a period five (5) years from the date of installation, but the manufacturer’s limited warranty, providing operations and maintenance recommendations are followed.
- C. Pumps shall be protected against defective material or workmanship for a period of two (2) years from date of installation.

### **PART 2 - PRODUCTS**

#### **2.1. CABINET**

- A. The cooler cabinet, blower housing and blower wheel shall be constructed of heavy gauge, rust and corrosion inhibiting, hot-dipped galvanized steel.
- B. The cooler cabinet shall be protected inside and outside with a baked polyester enamel.
- C. The water reservoir shall be die-formed, welded seam construction. Mastics or adhesive coatings are not acceptable.
- D. The water distribution internal to the unit shall be PVC.
- E. The water troughs shall be fully visible and adjustable from the outside of the cooler, without removing louver assembly.

### **PART 3-INSTALLATION**

- A. Remove currently installed evaporative Evaporative Cooler block-out.
- B. Provide and install Evaporative Cooler
- C. Provide and install all plumbing piping (1/4” copper/vinyl tube) and fitting as necessary to tie to existing water source
- D. Provide and install evaporative cooler support frame, attach to roof with screws/anchors
- E. Provide and install all caulking and sealant for a weather-tight installation
- F. Provide and install PVC overflow drain, extend approximately 5’-0 min. to roof gutters

**The Housing Authority of the County of San Bernardino**

**BUY AMERICAN CERTIFICATION**

**IFB Number** \_\_\_\_\_

**Project** \_\_\_\_\_

**(Bidder shall complete one of the following with their bid)**

***Certificate of Compliance with American Recovery and Reinvestment-Buy American Section 1605***

The undersigned bidder or offeror hereby acknowledges and certifies that the response submitted as a response to the above noted IFB will meet the requirements and is in full compliance with the American Recovery and Reinvestment Act of 2009-“Buy American” Section 1605.

In addition; the undersigned bidder or offeror certifies that they will, if awarded a contract by the Housing Authority of the County of San Bernardino, as a result of the above noted IFB, submit to HACSB documentation that will verify compliance with the requirements of above Section 1605.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Company Name \_\_\_\_\_ Title \_\_\_\_\_

**OR**

***Certificate of Non-Compliance with American Recovery and Reinvestment-Buy American Section 1605***

The bidder or offeror hereby certifies that it **cannot** comply with the requirements of American Recovery and Reinvestment-Buy American Act of 2009-“Buy American” Section 1605;but it may qualify for an exception pursuant to the criteria below:

- Iron, steel and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- Inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

If you are requesting a waiver for the above reasons, you **must provide documentation with your bid** to substantiate your request.

**Requests for waiver that do not include documentation will be deemed non-responsive and removed from further consideration.**

Date \_\_\_\_\_ Signature \_\_\_\_\_

Company Name \_\_\_\_\_ Title \_\_\_\_\_

**EXHIBIT C**  
**PROPOSAL FORM**

Proposal : **Evaporative Coolers PC648**

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

To: The Housing Authority of the County of San Bernardino  
715 E. Brier Drive  
San Bernardino, CA 92408

1. The undersigned, having familiarized themselves with the local conditions affecting the cost of the work, and with the Specifications, if any thereto, hereby proposes to furnish all labor, materials, equipment and services required to provide such service(s) described in the scope of work in accordance therewith, for the sum of:

Item	Description	# of Units	Bid Price
	Provide pricing per the specifications of IFB PC648 for:		
1	1077-1079 11 <sup>th</sup> Street, San Bernardino	2	
2	1279-1299 Turrill, San Bernardino	2	
3	630-632 J Street, San Bernardino	2	
4	740-759 7th Street, San Bernardino	6	
5	755-765 8 <sup>th</sup> Street, San Bernardino	6	
6	1315-1325 Davidson, San Bernardino	6	
7	2165 Mill Street, San Bernardino	10	
	<b>TOTAL ALL UNITS</b>	<b>34</b>	

2. In submitting this proposal it is understood that the right is reserved by the Housing Authority of the County of San Bernardino to reject any and all proposals. If written notice of the acceptance of this proposal is mailed, telegraphed, faxed, or delivered to the undersigned within thirty (30) days after the opening thereof, or at any time thereafter before this proposal is withdrawn, the undersigned agrees to a contract/agreement in the prescribed form and furnish any required insurance requirements within ten (10) days after the contract is presented to him for signature.

**NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.**

Date \_\_\_\_\_, 20\_\_\_\_ (Company Name) \_\_\_\_\_

\_\_\_\_\_  
(Official Address) (By) \_\_\_\_\_

\_\_\_\_\_  
(Title) \_\_\_\_\_

\_\_\_\_\_  
(Contractors State License Number) (Telephone Number) \_\_\_\_\_