NOTICE OF SPECIAL MEETING

Tuesday, October 25, 2016
6:00 p.m.

BOARD OF DIRECTORS OF SILVERCREST, INC.

Date: October 20, 2016

To: Stacy Sablan, Chair
Adrian Jones, Vice Chair
Rueben Scott, Director
Reneeta Anthony, Director
Tracewell Hanrahan, Treasurer

From: Preston Prince, Secretary/Director

Subject: Notice of Special Board Meeting

NOTICE IS HEREBY GIVEN that a meeting of the Board of Directors of Silvercrest, Inc., will be held at 6:00 p.m. on Tuesday, October 25, 2016 (subsequent to the meeting of the Boards of the Fresno Housing Authority), in the Board Room of the Fresno Housing Authority Offices.

AGENDA
1. Call to Order/Approval of Agenda
2. Consideration of the Minutes of June 21, 2016
3. Consideration of the Contract with Novogradac & Company LLP for Tax Credit CPA and Annual Audit Services
4. Adjournment

______________________
Preston Prince
Preston Prince, Secretary/Director
Minutes of Special Meeting

Of the Board of Directors of

SILVERCREST, INC.

Tuesday, June 21, 2016

5:00 P.M.

There was a duly noticed special meeting of the Board of Directors of the Silvercrest, Inc. on Tuesday, June 21, 2016 at the offices of the Fresno Housing Authority, 1331 Fulton Mall, Fresno, CA 93721.

1. The meeting was called to order by Director Sablan at 7:58 p.m., and upon roll call, Directors/Officers present and absent were as follows:

   PRESENT: Stacy Sablan, Chair
             Adrian Jones, Vice Chair
             Reneeta Anthony, Director
             Preston Prince, Director/Secretary
             Tracewell Hanrahan, Treasurer

   ABSENT: Rueben Scott, Director

   Also in attendance: Lauren Layne, General Counsel from Baker Manock and Jensen; and Tiffany Mangum, Special Assistant to the CEO/Executive Director.

1. Approval of Agenda

   Upon motion by Director Anthony, seconded by Director Jones, and with unanimous vote, the agenda was approved as posted.

2. Consideration of the Minutes of May 24, 2016

   Upon motion by Director Prince, seconded by Director Jones, and with unanimous vote, the May 24, 2016 minutes were approved.

3. Consideration of the Memorandum of Understanding and Entity Formation – Memorial Village

   Director Anthony recused herself from this item.

   Director Jones motioned to approve the memorandum of understanding and entity formation for Memorial Village. This action was seconded by Director Prince, and with
unanimous vote, the memorandum of understanding and entity formation for Memorial Village was approved.

4. Consideration of the Memorandum of Understanding and Entity Formation – Parc Grove Commons Northeast Veterans

Director Anthony motioned to approve the memorandum of understanding and entity formation for the Parc Grove Commons Northeast Veterans project. This action was seconded by Director Jones, and with unanimous vote, the memorandum of understanding and entity formation for the Parc Grove Commons Northeast Veterans project was approved.

5. Adjournment

There being no further business to be considered by the Board of Directors for Silvercrest, Inc., the meeting was adjourned at approximately 7:59 p.m.

_____________________________________

Preston Prince, Secretary
MEMORANDUM – Silvercrest, Inc.

To: The Board of Directors of Silvercrest, Inc.           Date: October 20, 2016

From: Preston Prince
       Secretary/Director          Agenda Item:

Subject: Consideration of the Contract with Novogradac & Company LLP for Tax Credit CPA and Annual Audit Services

As the Managing General Partner, Silvercrest, Inc. has certain responsibilities for each of the Tax Credit Limited Partnership with which it is connected. One of those duties is to ensure that annual audits and tax returns are completed every year for each of the limited partnership properties. At this time, Staff is requesting the Board of Director’s approve Novogradac & Company LLP, as the certified public accounting firm required to perform CPA and annual audit services for the limited partnerships listed below, as well as the financial audit and tax return filing for Silvercrest, Inc.

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<tr>
<th>Parc Grove Commons II, LP</th>
<th>Parc Grove Commons III, LP</th>
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<tr>
<td>Fresno Pacific Gardens, LP</td>
<td>Fresno Renaissance at Trinity, LP</td>
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<tr>
<td>Renaissance at Alta Monte, LP</td>
<td>YEC Limited, LP (Yosemite Village)</td>
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<tr>
<td>Renaissance at Santa Clara, LP</td>
<td>Kerman Acres, LP</td>
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<tr>
<td>Bridges at Florence, LP</td>
<td>Sanger Seniors, Limited (Elderberry)</td>
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<tr>
<td>Parc Grove Commons Northwest, LP</td>
<td>Clovis Seniors Limited, LP (Silver Ridge)</td>
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<td>802 Van Ness Avenue, LP</td>
<td>Shockley Terrace, LP</td>
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<td>Reedley Kings River Commons, LP</td>
<td>Memorial Village, LP</td>
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<td>Mendota RAD, LP</td>
<td>Firebaugh Gateway, LP</td>
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<td>Orange Cove RAD, LP</td>
<td>Fresno Edison Apartments II, LP</td>
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<td>Southeast Fresno RAD, LP</td>
<td>Fresno Edison Apartments, LP</td>
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<td>Kingsburg Marion Villas, LP</td>
<td>Reedley Trailside Terrace, LP</td>
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<td>Viking Village Fresno RAD, LP</td>
<td>Lowell Neighborhood Project, LP</td>
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<tr>
<td>Fultonia West/Cedar Heights Scattered Site, LP</td>
<td>Magill Terrace, LP</td>
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The cost of each audit and tax return for the limited partnerships will be different depending on the services required. The cost will range between $7,500 and $11,000 depending on complexity and the amount of time required for each audit and tax filing. For example, Mendota RAD LP will cost $11,000 because of the complexity of the multiple financing sources and the additional financial reporting that needs to be sent to the HUD Multi-Family Housing Department. The cost of the Silvercrest, Inc. audit and tax returns will be $14,000 due to nature of the entity, specifically the consolidation requirements mandated by Governmental Accounting Standards Board (GASB) rule 68.

RECOMMENDATION:

It is recommended that the Board of Directors of Silvercrest, Inc. approve the Novogradac & Company LLP as the certified public accounting firm required to perform CPA and annual audit services. The contract will be effective as of November 1st, 2016 and will be valid for an initial term of one year, with the option to renew the contract for an additional four one-year periods. Staff also recommends that the Board of Directors authorize the Secretary/Director, or their designee, of Silvercrest, Inc. to negotiate and execute the contracts with Novogradac & Company LLP for the audit and/or tax services. Each limited partnership is required to have their own contract with Novogradac & Company LLP, and attached to this memo is an example of the contracts that will be signed by the Secretary/Director.
BEFORE THE BOARD OF DIRECTORS OF SILVERCREST, INC.

Resolution Number:

RESOLUTION APPROVING THE CONTRACTS FOR TAX CREDIT CPA AND ANNUAL AUDIT SERVICES

WHEREAS, Silvercrest, Inc. has a duty to ensure that annual audits and tax returns are completed for each of the limited partnerships in which Silvercrest, Inc. acts as the Managing General Partner; and,

WHEREAS, Novogradac & Company LLP was a responsive and responsible firm who provided qualifications and prices that are the most advantageous to each partnership; and

WHEREAS, the term of said contract will be November 1st, 2016 through October 31st, 2017, with an option to extend the contract term for four additional, one year terms, for a possible total contract term of five years; and,

NOW THEREFORE, BE IT RESOLVED that the Boards of Directors of the Silvercrest, Inc. approve the Novogradac & Company LLP as the certified public accounting firm required to perform CPA and annual audit services.

PASSED AND ADOPTED THIS 25th day of October, 2016. I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the governing body with the following vote, to-wit:

AYES: XX

NOES: XX

ABSTAIN: XX

ABSENT: XX

_________________________________________________
Preston Prince, Secretary of the Boards of Directors
INTRODUCTION

This contract by and between 1555 Santa Clara Street, LP, a California Limited Partnership (hereinafter “the Partnership”), and Novogradac & Company LLP (hereinafter “the Contractor”) is hereby entered into this 25th day of October, 2016.

Contractor work pursuant to this contract shall begin on the 1st day of November, 2016, and shall end on the 31st day of October, 2017, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. Unless otherwise detailed herein, all references to “days” shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term "herein" is referred to, such refers to this contract form, the appendices and all listed exhibits.

1.0 Definitions.

1.1 1555 Santa Clara Street, LP, a California Limited Partnership (“the Partnership”). Any reference herein or within any Appendix to “1555 Santa Clara Street, LP, a California Limited Partnership” shall be interpreted to mean the same as “the Partnership”.

1.2 Contracting Officer (CO). The Partnership’s Contracting Officer, typically the Secretary for Silvercrest, Inc. but may be another person delegated such authority by the Secretary.

1.3 Secretary for Silvercrest, Inc. The Partnership’s Secretary/Director.

1.4 Requests For Proposals (RFP). A competitive solicitation process conducted by the Partnership wherein award was completed to the top-rated responsive and responsible proposer.

2.0 Services and Payment.

2.1 Scope of Services. The services provided pursuant to this contract generally consist of those services for the Partnership as described herein and within the attached Appendix No. 2. Said services shall be provided on the dates and times determined by the Partnership. In addition, the Partnership shall retain the right
to implement and/or enforce any item issued as a part of Request For Proposal (RFP) No. P16003.

2.2 Cost/Value of Services.

2.2.1 Contract Value. The total Not-To-Exceed (NTE) value of this contract is: $9,500 per year. NTE value is calculated per the fee schedule in Appendix No. 3. The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor’s fees to exceed the NTE amount without prior revision of this amount by written change order.

2.3 Renewal Options. This contract is initially executed for the period of one (1) year with the option, at the Partnership’s discretion, of four (4) additional one-year option periods, for a maximum total of five (5) years.

2.4 Time Performance. The Contractor will complete each task as assigned by the Partnership.

2.5 Billing Method.

2.5.1 To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

Silvercrest, Inc.
Attention: Accounts Payable
1331 Fulton Mall, Fresno, California 93721
Acct_ap@hafresno.org

2.5.2 At a minimum, the invoice shall detail the following information:

2.5.2.1 Unique invoice number;

2.5.2.2 Contractor’s name, address and telephone number;
2.5.2.3 Date of invoice and/or billing period;
2.5.2.4 Applicable Contract No.;
2.5.2.5 Applicable Purchase Order No.;
2.5.2.6 Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report);
2.5.2.7 Total dollar amount being billed.

2.5.3 The Partnership will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Contractor complies with the applicable provisions of this contract.

3.0 Agency’s Obligations. Pursuant to this contract, the Partnership agrees to provide the specific services detailed herein and also shall be responsible for the following:

3.1 The Partnership agrees to not provide to the Contractor any task assigning work to the Contractor without the prior written approval of an authorized Agency representative.

4.0 Contractor’s Obligations. Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:

4.1 Supervision and Oversight. The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor’s personnel that are assigned to the Partnership pursuant to this contract.

4.2 Qualified Personnel. The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term “qualified personnel” shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its proposal or as provided by the Contractor during the Contractor’s normal conduct of business.
4.3 **Compliance with Federal and State Laws:** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with all applicable Federal, State and local laws, regulations, codes and ordinances.

4.4 **Confidentiality.** The Contractor, in connection with performing services hereunder, will have access to or may be provided certain confidential information concerning the Partnership and agrees that any information concerning the finances, accounting practices, business, client, client lists, property information, client data, records of the Partnership or any other information which a reasonable person could conclude that should remain confidential (collectively Confidential Information), will not be disclosed to any party and without limitation, any employee of the Partnership or any client or potential client of the Partnership at any time, except for the Contractor’s legal counsel, accounts, or financial advisors, who will also hold such Confidential Information in confidence. The Independent Contractor acknowledges that the information is being provided with the sole understanding that all Confidential Information will remain confidential and will be held in the strictest confidence. The Independent Contractor further acknowledges that any disclosure of the Confidential Information, whether intentional or inadvertent, may harm the Partnership. The Partnership will have the right to enforce this Contract by specific performance, as well as hold the Independent Contractor liable for any damages caused by any disclosure of any Confidential Information whether intentional or inadvertent. The Independent Contractor agrees that he has received valuable consideration for the entering into of this Contract and agrees to be bound all of its terms and conditions. This Contract will be binding on the Independent Contractor and any attorney, accountant, financial advisor who also may be provided Confidential Information.

4.5 **Insurance Requirements.**

4.5.1 **Insurances.** The Contractor shall provide the Partnership with Certificate(s) of Liability Insurance. The Partnership shall be named upon the certificate issued as an “additional insured,” together with providing a copy of the corresponding endorsement evidencing the same. In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:

4.5.1.1 **General Liability Insurance.** Policy of General Liability Insurance, $1,000,000 per occurrence, $1,000,000 aggregate
together with damage to premises and fire damage of $50,000 and medical expenses for any one person of $5,000 with a deductible not greater than $3,000.

4.5.1.2 **Professional Liability Insurance.** Policy of Professional Errors & Omissions Liability Insurance coverage, minimum of $1,000,000 each occurrence, general aggregate minimum limit of $1,000,000 with a deductible of not greater than $500,000;

4.5.1.3 **Automobile Liability Insurance.** Automobile Liability coverage in a combined single limit of $1,000,000. For every vehicle utilized during the term of this contract, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than $50,000/$100,000 and medical pay of $5,000 with a deductible not greater than $3,000.

4.5.1.4 **Worker’s Compensation Insurance.** Worker’s compensation coverage evidencing carrier and coverage amount.

4.5.1.5 **Certificates and Endorsements.** The Contractor shall provide to the Partnership with current certificate(s) and endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the Partnership as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof. Insurance certificate(s) and endorsement(s) shall be delivered to the following person representing the Partnership:

Silvercrest, Inc.
Attn: Emily De La Guerra, Director of Finance
1331 Fulton Mall, Fresno, California 93721

4.6 **Licensing.** The Contractor shall maintain a local Business Tax License. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.
4.7 Financial Viability and Regulatory Compliance.

4.7.1 The Contractor warrants and represents that its Partnership entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

4.7.2 The Contractor agrees to promptly disclose to the Partnership any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the Partnership in writing within five (5) days of such notification received will constitute a material breach of this contract.

4.7.3 The Contractor further agrees to promptly disclose to the Partnership any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within five (5) days of said actions shall constitute a material breach of this contract.

4.7.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to the Partnership within the time periods required herein.

5.0 Modification. This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.

6.0 Severability. The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.
7.0 Applicable Laws.

7.1 Compliance with Federal and State Laws. All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

7.2 Jurisdiction of Law. The laws of the State of California shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Fresno County, California is the appropriate forum for any action relating to this contract. This contract may be signed in counterparts.

8.0 Notices and Reports.

8.1 All notices and/or reports submitted to the Partnership by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the Partnership:

Silvercrest, Inc.
Attn: Arlene Wood, Senior Accountant
1331 Fulton Mall, Fresno, CA 93721

8.2 All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

Novogradac & Company LLP
Attn: Jonathan Adkins, Partner
246 First Street, 5th Floor, San Francisco, CA 94105

9.0 Disputed Billings (Charges).

9.1 Procedures: In addition to the procedures detailed within Clause No. 7 of Appendix No. 1, Form HUD-5370-C (10/2006), General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work), in the event that the Partnership disputes any portion of its billing(s), the Partnership shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:
9.1.1 The Partnership's representative shall, within ten (10) days after the Partnership’s receipt of such billing, formally notify the contractor’s representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

9.1.2 If such dispute cannot be resolved by the contractor’s response, within ten (10) days after such notification is given, the CO and the contractor’s representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.1.3 If the CO and the contractor’s representative are unable to resolve the dispute through such discussion within ten (10) days, the Partnership shall, within ten (10) days thereafter, either:

9.1.3.1 Pay the disputed charges and reserve the right to submit the matter to the appropriate District Court in the State of California;

9.1.3.2 Not pay the disputed charge and submit the matter to the appropriate district court in the State of California;

9.1.3.3 Not pay the disputed charge and allow the Contractor to submit the matter either to the appropriate District Court in the State of California.

9.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the Partnership, the Partnership shall pay the Partnership’s receipt of the decision. If the decision is in favor of the Partnership, the contractor will either:

9.1.4.1 Clear the amount which is ordered from the Partnership account; or

9.1.4.2 Repay to the Partnership the amount ordered;

Either option shall be completed within ten (10) days after the contractor’s receipt of the arbitrator’s decision.

10.0 **Binding Arbitration/Dispute Resolution.** Any and all (material and non-material) disputes or controversies between the parties hereto involving either: (1) the
construction or application of any of the terms, covenants or conditions of this Agreement or (2) otherwise arising in any respect with regard to this Agreement, or (3) relating to, arising out of, or resulting from either this Agreement, the performance of this Agreement, or the lack of performance of this Agreement, and/or (4) in any other manner relating to or involving this Agreement, shall not be litigated in any federal or state court or before any state, federal or administrative agency, but rather shall upon written request of one party served on the other be submitted and shall be solely and exclusively resolved by “final and binding” arbitration before a neutral retired Judge, which arbitration shall comply with and be governed by the provisions of the California Arbitration Act (CCP §§1280, et seq.) This Arbitration Agreement constitutes a waiver of any right to a jury trial; and it also waives any right to proceed before any federal or state court or any federal or state administrative agency with regard to the disputes resolution. Said waivers are agreed to because the parties hereto prefer neutral and binding arbitration over any other means of dispute resolution. The neutral (retired Judge) arbitrator shall be mutually agreed upon by the parties; if such an Agreement is not promptly forthcoming, then the retired Judge to serve as arbitrator shall be selected by the Superior Court in accordance with the California Arbitration Act. The Arbitration hearing shall be conducted before a Certified Court Reporter and shall take place in the County of Fresno unless otherwise agreed by both parties. The hearing before the arbitrator of the matters to be arbitrated shall be at a time and place within the County of Fresno as selected by the Arbitrator. The Arbitrator shall select such time and place promptly after his/her appointment, and the arbitrator shall give written notice thereof to each party at least thirty days prior to the date so fixed. The arbitrator shall follow California substantive and procedural law; except only at the hearing, any relevant evidence may be presented by either party, and the formal rules of evidence applicable to judicial proceedings (in the sole discretion of the arbitrator) need not govern, so that evidence may be admitted or excluded in the discretion of the arbitrator as long as it is trustworthy. The arbitrator shall hear and determine the matter and shall execute and acknowledge the award in writing explaining the basis for his/her ruling. The Arbitrator shall cause a copy of the award to be delivered to each of the parties within twenty (20) calendar days after the conclusion of the evidentiary hearing, unless otherwise agreed by the parties. Said award shall follow California substantive and procedural law. All the arbitrators’ fees and all of the certified court reporter’s fees (for daily attendance and for providing the arbitrator with the original transcript) shall be shared equally (50/50) by the parties; and all the parties shall bear their own legal fees and their own litigation costs and expenses.

10.1 Breach. Notwithstanding the foregoing, it is hereby agreed and understood that, in the event that if a party to this Agreement breaches or threatens to breach this Agreement, then the other party to the Agreement may seek and obtain an injunction and/or any other equitable relief necessary from a state or federal
court of competent jurisdiction, so as to order the continuance of the party’s performance under this Agreement, pending the results of the aforementioned arbitration proceeding.

10.2 Mediation. Further, notwithstanding the foregoing, it is agreed that prior to appearing before and conducting the aforementioned binding arbitration hearing, the parties shall engage in a fully privileged and confidential Mediation before a neutral retired Judge. The Mediator retired Judge shall be a different person from the arbitrator retired Judge unless the parties stipulate otherwise. The Mediator shall be mutually selected by the parties; however, if they are unable to agree, then the Mediator shall be selected by the arbitrator. The Mediator’s fees and costs shall be shared equally by the parties. Communications during the Mediation process shall remain confidential and barred from introduction into evidence at the arbitration pursuant to the provisions of California Evidence Code §§ 1152 and 1119 and Fed. Rules of Evidence, Rule 408.

10.3 Petition to Compel Arbitration, and/or Petition To Enforce The Arbitrator’s Award. Notwithstanding anything herein to the contrary, if either party to this Agreement brings any court action or proceeding to either compel arbitration or to enforce an arbitration award, then the prevailing party shall be entitled to recover reasonable attorneys’ fees as well as costs and expenses. The arbitration process itself is not an action or proceeding for purposes of this Agreement.

11.0 24 CFR 85.36(i), Procurement. Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the Partnership and the Contractor each agree to comply with the following provisions:

11.1 Remedies for Contractor Breach. Pertaining to contract-related issues, it is the responsibility of both the Partnership and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the Partnership or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the Partnership has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within ten (10) days, respond in writing to the other party (however, the Partnership shall retain the right to, if conditions warrant, require the contractor
to respond in a shorter period of time). Further, the Partnership shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

11.1.1 If the contractor is in material breach of the contract, the Partnership may promptly invoke the termination clause detailed within Form HUD-5370-C (10/2006), General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work), which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

11.1.2 Prior to termination, the Partnership may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The Partnership shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten (10) days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the Partnership’s position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the Partnership’s alleged incorrect action(s).

11.1.3 After termination, if the contractor does not agree with the Partnership’s justification for the termination, the contractor shall have ten (10) days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the Partnership’s position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the Partnership’s alleged incorrect action(s).

11.2 Termination For Convenience. Notwithstanding any other provision of this Contract, the parties agree that the Partnership may terminate this agreement at any time, in its sole and absolute discretion, by delivering written notice to the
Contractor. In such event, Contractor shall only be paid for the services actually performed to the date of such written notice.

11.3 **Reporting.** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.

11.4 **Patent Rights.** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.

11.5 **Copy Rights/Rights in Data.** In addition to the requirements contained within Clause No. 5 of *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the Partnership has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:

11.5.1 Except as provided elsewhere in this clause, the Partnership shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.

11.5.2 The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
11.5.3 For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the Partnership and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the Partnership.

11.5.4 The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the Partnership a license of the same scope as identified in the preceding paragraph.

11.5.5 The Partnership agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the Partnership may either return the data to the contractor, or cancel or ignore the markings.

11.5.6 The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor’s obligations under this contract.

11.5.7 Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the Partnership shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.

11.5.8 The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the Partnership except as provided below or as expressly stated otherwise in this contract. The restricted
computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any Agency location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.

11.6 Access to Records. Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

11.7 Record Retention. Both parties hereby guarantee retention of all required records for three (3) years after grantees or subgrantees make final payments and all other pending matters are closed.


12.0 Additional Considerations.

12.1 Non-Escalation. Unless otherwise specified within the contract documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.

12.2 Funding Restrictions and Order Quantities. The Partnership reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the Partnership, if:

12.2.1 Funding is not available;
12.2.2 Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

12.2.3 The Partnership’s requirements in good faith change after award of the contract.

12.3 **Local, State, and/or Federal Permits.** All local, State or Federal permits which may be required to provide the services ensuing from award, whether or not they are known to either the Partnership or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the Contractor, and any costs required by the Contractor to procure and provide such necessary permits.

12.4 **Government Standards.** It is the responsibility of the proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NOSHA) and environmental control (EPA and Fresno Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.

12.5 **Freight on Bill and Delivery.** All costs submitted by the proposer shall reflect the cost of delivering the proposed items and/or services to the locations(s) specified within the contract.

12.5.1 The Contractor agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the Contractor. Upon default, the Contractor agrees that the Partnership may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.

12.6 **Backorders.**

12.6.1 The CO must be notified in writing by the contractor within 10 days of any and all backordered materials and/or any incomplete services; and the estimated delivery date.
12.6.2 Unless otherwise stipulated in the contract, any order that will take more than a maximum of 10 days past the original agreed upon delivery date, may at the option of the Partnership, be canceled and ordered from another source, if, in the opinion of the CO, it is in the best interests of the Partnership to do so.

12.7 Work on Agency Property. If the Contractor’s work under the contract involves operations by the Contractor on Agency premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the Partnership’s negligence, shall indemnify the Partnership, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.

12.8 Official, Agent and Employees of the Partnership Not Personally Liable. It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the Partnership in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

12.9 Subcontractors. Unless otherwise stated within the contract documents, the Contractor may not use any subcontractors to accomplish any portion of the services described within the contract without the prior written permission of the CO.

12.10 Salaries and Expenses Relating to the Contractors Employees. The Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.

12.11 Independent Contractor. The Contractor is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
12.12 **Severability.** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.

12.13 **Waiver of Breach.** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.

12.14 **Time of the Essence.** Time is of the essence under this agreement as to each provision in which time of performance is a factor.

12.15 **Limitation of Liability.** In no event shall the Partnership be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.

12.16 **Indemnification.**

12.16.1 The Contractor shall indemnify, defend, and hold the Partnership (and its officers, employees, and agents) harmless from and against personal injury and tangible property damage claims, damages, losses, suits, actions, decrees, judgments, attorney’s fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with the “California Industrial Insurance Act,” or any other similar law, ordinance, or decree; or (4) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the Partnership against any loss or damage which was specifically caused by the Partnership providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.

12.16.2 In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the Partnership, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against
them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the Partnership. If the Contractor shall fail to do so, the Partnership shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney’s fees and court costs.

12.16.3 Any money due to the Contractor under and by virtue of this contract, which the Partnership believes must be withheld from the Contractor to protect the Partnership, may be retained by the Partnership so long as it is reasonably necessary to ensure the Partnership’s protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the Partnership provided, however, neither the Contractor’s payments shall not be withheld, and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the Partnership from any potential claims.

12.16.4 The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

13.0 Lobbying Certification. By execution of this contract with the Partnership the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

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

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

13.3 The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

13.4 Additional Federally Required Orders/Directives. Both parties agree that they will comply with the following laws and directives, where applicable:

13.4.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.

13.4.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The Partnership hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).

13.4.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the Partnership requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.

13.4.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
13.4.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).

13.4.6. HUD Information Bulletin 909-23 which is the following:

13.4.6.1. Notice of Assistance Regarding Patent and Copyright Infringement;

13.4.6.2. Clean Air and Water Certification; and,


13.4.7 That the funds that are provided by the Partnership and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.

13.4.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.

13.4.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable nor is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either part.

14.0 Section 3 Clause. As detailed within 24 CFR 135.38, Section 3 clause, the following required clauses are hereby included as a part of this contract.

14.1 The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted
projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

14.2 The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

14.3 The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

14.4 The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

14.5 The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.

14.6 Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
14.7 With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

15.0 Appendices.

15.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:

15.1.1 Appendix No. 1. Form HUD-5370-C (10/2006), General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work);

15.1.2 Appendix No. 2. Scope of Services, as agreed upon by negotiation between the Partnership and the Contractor;

15.1.3 Appendix No. 3. The proposed fee(s) submitted by this contractor in response to the RFP, or any negotiated fee(s) that resulted thereto, which fee(s) shall apply to each procurement that ensues from this contract.

15.1.4 Inclusion by Reference. Included by reference is any document or clause issued as a part of RFP No. P16003 that the Partnership may choose to include at any time during the performance of this contract or any options exercised thereto by the Partnership. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the Partnership upon written request for such from the contractor.

15.2 Order of Precedence. Please note that, in the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order
that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).

16.0 CERTIFICATIONS. The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

Novogradac & Company LLP:

By:________________________________________________  Date:________________

Jonathan Adkins, Partner

1555 Santa Clara Street, LP, a California Limited Partnership by Silvercrest, Inc., a California Nonprofit Public Benefit Corporation, its Managing General Partner:

By:________________________________________________  Date:________________

Preston Prince, CEO/Executive Director
Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

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

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

1. Definitions

The following definitions are applicable to this contract:
(a) "Authority or Housing Authority (HA)" means the Housing Authority.
(b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
(c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
(d) "Day" means calendar days, unless otherwise stated.
(e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

(a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
(b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
(c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.
(d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
(e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

(a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
(b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
(c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of offset or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
(d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
(e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

(a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.
(b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
(i) appeals under the clause titled Disputes;
(ii) litigation or settlement of claims arising from the performance of this contract; or,
(iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-123) for the State in which the work under this contract is performed.

7. Disputes

(a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.

(c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.

(d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.

(e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

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

11. Organizational Conflicts of Interest

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
(i) Award of the contract may result in an unfair competitive advantage; or
(ii) The Contractor's objectivity in performing the contract work may be impaired.

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

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

(d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

(a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any
product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

(b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.

(c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

(i) The awarding of any Federal contract;
(ii) The making of any Federal grant;
(iii) The making of any Federal loan;
(iv) The entering into of any cooperative agreement; and,
(v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

(i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
(ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
(iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
(iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

(i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any following Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:
(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of:

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(ii) of this clause, does not apply to the following soliciting activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.
16. Equal Employment Opportunity

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

(a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.

(c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of...
apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.
Appendix No. 2 – Scope of Services

Annual Audits and Tax Return Preparation for Tax Credit Entities:

Contractor shall perform annually audits and prepare tax returns for Limited Partnership Tax Credit entities listed in Appendix 3 – Schedule of Fees. The contractor shall:

i. Meet quarterly with the Agency’s Development Director and/or Community Development Manager(s) to strategize financial direction of the Agency.

ii. Provide on-going support to the Agency Planning and Community Development Department for any changes in HUD regulation, including compliance with applicable GASB or FASB statements.

iii. During the California Tax Credit Allocation Committee (TCAC) application period, provide Eligible Tax Basis and Qualifying Project Certifications and Cash Flow Analysis’ for specific projects.

iv. Annually perform audits and prepare tax returns for Limited Partnership Tax Credit developments.

v. Annually prepare tax returns for Limited Liability Companies.

vi. Provide required certifications for CTCAC, including 10% Tests, Carryover Allocation Documentation, Cost Certification Statements, Final Cost Certification/Verification of Sources and Uses, and Placed-in-Service Packages, as well as other tasks as needed.

vii. In addition to the above, the Agency shall, based upon the Agency’s needs at any time during the ensuing contract period, retain the right to award to the successful proposer any amount of work pertaining specifically to the inspection, review, analysis, and reporting of Agency financial records.

viii. Upon receipt of the PBC list, members of the Housing Authority team assigned with the audit will provide the information in a timely manner as audits are a priority for the Agency. Information returned in a timely manner back to the auditor will result in meeting deadlines established by our lenders/investors. The successful proposer will provide the team dedicated to meeting these deadlines as well as the necessary follow up to close any open items.

ix. All audits related to tenant file testing will be completed at location of the property management company.

x. Attest to UFRS—Financial Statement upload to HUD for RAD properties as required by HUD multifamily compliance.

Please note that any of the above services are, based on the Agency’s needs, subject to change.
## Appendix No. 3—Schedule of Fees

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Qty</th>
<th>Unit</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total cost to perform CPA services, and file audit and tax return for the Partnership (Year 1).</td>
<td>1</td>
<td>EA</td>
<td>$9,500</td>
</tr>
<tr>
<td>2</td>
<td>Total cost to perform CPA services, and file audit and tax return for the Partnership (Option Year 2)</td>
<td>1</td>
<td>EA</td>
<td>$9,500</td>
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<tr>
<td>3</td>
<td>Total cost to perform CPA services, and file audit and tax return for the Partnership (Option Year 3)</td>
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<td>EA</td>
<td>$9,500</td>
</tr>
<tr>
<td>4</td>
<td>Total cost to perform CPA services, and file audit and tax return for the Partnership (Option Year 4)</td>
<td>1</td>
<td>EA</td>
<td>$9,500</td>
</tr>
<tr>
<td>5</td>
<td>Total cost to perform CPA services, and file audit and tax return for the Partnership (Option Year 5)</td>
<td>1</td>
<td>EA</td>
<td>$9,500</td>
</tr>
</tbody>
</table>