

Joseph L. Smith  
Chairman, Board of Commissioners

Janet Abrahams  
President / Chief Executive Officer



**HOUSING  
AUTHORITY of  
BALTIMORE CITY**

## HOUSING AUTHORITY OF BALTIMORE CITY

### REQUEST FOR PROPOSALS

B-1908-20

### VACANT UNIT RENOVATIONS

**Steve Suit, Senior Vice President of Procurement**  
**Housing Authority of Baltimore City**  
**417 East Fayette Street, Suite 401**  
**Baltimore, Maryland 21202**  
**Phone: 410-396-3261**

**Issuance Date: Monday,**  
**March 2, 2020**  
**Pre-Proposal Conference:**  
**Wednesday, March 11, 2020**  
**at 10:00 a.m.**  
**Submission Deadline:**  
**Friday, March 27, 2020**  
**by 2:00 p.m. Eastern Time**

Housing Authority of Baltimore City | 417 East Fayette Street, Baltimore, MD 21202

410.396.3232



www.HABC.org



@BmoreHabc



**HOUSING AUTHORITY OF BALTIMORE CITY  
REQUEST FOR PROPOSALS  
VACANT UNIT RENOVATIONS  
RFP NUMBER: B-1908-20**

**PROPOSALS DUE BY: 2:00 p.m. on Friday, March 27, 2020, at 417 East Fayette  
Street, Room 414, Baltimore, Maryland 21202**

**TABLE OF CONTENTS**

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
1.1	Statement of Purpose	1
1.2	Agency Background	1
1.3	Scope of Services	1
<b>2</b>	<b>PROPOSAL SUBMISSION INSTRUCTIONS</b>	<b>3</b>
2.1	Procurement Standards	3
2.2	Estimated Selection Timetable	3
2.3	Submission of Response to the RFP	4
2.4	Response Submission Deadline	4
2.5	Place of Submission	4
2.6	Pre-Proposal Conference	4
2.7	Questions and Interpretations	4
2.8	Preparation of Proposal	4
2.9	Execution of Proposal	5
2.10	Mistakes in Proposals	5
2.11	Attachments	5
2.12	Confidentiality	5
<b>3</b>	<b>EQUAL OPPORTUNITY REQUIREMENTS</b>	<b>6</b>
3.1	Subcontracting with Minority and Women-Owned Business Enterprises	6
3.2	Compliance with Section 3 of the Housing and Urban Development Act of 1968	9
<b>4</b>	<b>INSURANCE REQUIREMENTS</b>	<b>10</b>
4.1	Required Coverage	10
4.2	Proof of Insurance Upon Notice of Award	10
<b>5</b>	<b>CONTRACTOR RESPONSIBILITY REVIEW</b>	<b>11</b>
5.1	Review Standards	11
5.2	Request for Additional Information	11
<b>6</b>	<b>CONTRACT AWARD</b>	<b>11</b>
6.1	Form of Award	11
6.2	Reservation of Rights as to Negotiations of All Elements of the Proposal	11
6.3	Basis of Contract Award	11
6.4	Reservation of Rights as To Contract Award	12
6.5	Rejection of Materially Unbalanced Proposals	12
6.6	No Effect of Reservation of Rights on Contract Formation	12
<b>7</b>	<b>CONTRACT PRICE</b>	<b>12</b>
<b>8</b>	<b>CONTRACT TERM</b>	<b>12</b>
8.1	Contract Term	12
8.2	Time and Order of Work	13
<b>9</b>	<b>SELECTION CRITERIA</b>	<b>13</b>
9.1	General	13
<b>10</b>	<b>SUBMISSION REQUIREMENTS</b>	<b>13</b>
10.1	Summary of Submission Requirements	13

10.2	Contents of Proposal	14
<b>11</b>	<b>PROPOSAL EVALUATION AND SELECTION PROCESS</b>	<b>17</b>
11.1	General	17
11.2	RFP Evaluation Panel	17
11.3	Proposal Evaluation	18
11.4	Competitive Range	18
11.5	Oral Presentations/Interviews	18
11.6	Negotiations	18
11.7	Best and Final Offers	19
11.8	Standard for Contract Award	19
11.9	Award Without Discussions	19
<b>12</b>	<b>PROTEST PROCEDURES</b>	<b>19</b>
12.1	Protest of Procurement Action	19
12.2	Appeal Rights	20
	<b>LIST OF ATTACHMENTS</b>	<b>21</b>
	Attachment 1 - Fee Schedule Certification and Affidavit of Non-Collusion	22
	Attachment 2 - HABC Conflict of Interest Statement	26
	Attachment 3 - Certification Regarding Debarment and Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions	30
	Attachment 4 - Authorization for Verification of References	32
	Attachment 5 - HUD Certifications	33
	Attachment 6 – Form HUD-5370-C General Conditions for Non-Construction Contracts – Section I & Section II	39
	Attachment 7 – HABC Contract Terms and Conditions	59
	Attachment 8 – Prime Contractor MBE Statement of Intent	80
	Attachment 9A – Section 3 Obligation of Contractor	82
	Attachment 9B – Section 3 Compliance Plan	89
	Attachment 9C – Section 3 of the HUD Act of 1968, as Amended First Source Hiring Agreement	90
	Attachment 10 – Certification for Business Concerns Seeking Section 3 Preference in Contracting	93
	Attachment 11 – Form HUD-5369-B Instructions to Offerors Non-Construction	97
	Attachment 12 – Form HUD-5369-C Certifications and Representations of Offerors	100
	Attachment 13 – General Wage Decision	103

**HOUSING AUTHORITY OF BALTIMORE CITY  
REQUEST FOR PROPOSALS  
VACANT UNIT RENOVATIONS  
RFP NUMBER: B-1908-20**

**PROPOSALS DUE BY: 2:00 p.m. on Friday, March 27, 2020, at 417 East Fayette Street,  
Room 414, Baltimore, Maryland 21202**

**1. INTRODUCTION**

**1.1 Statement of Purpose**

The Housing Authority of Baltimore City ("HABC") is requesting proposals from qualified firms ("Responder" or "Contractor") to provide renovations to HABC owned vacant dwelling units located throughout Baltimore City. The term "Responder" has the same meaning as Firm or Entity in this Request for Proposals ("RFP").

**1.2 Agency Background**

The following information is provided to aid prospective Responders in understanding HABC's objectives and services requested under this RFP.

HABC is a public body, corporate and politic, organized under the Annotated Code of Maryland, Housing and Community Development Article, Title 12. HABC is Baltimore City's public housing authority that administers the public housing program and other Federal and State affordable rental and homeownership housing programs to eligible families. As a recipient of funding primarily from the U.S. Department of Housing and Urban Development ("HUD"), HABC owns and operates conventional public housing developments, administers the Housing Choice Voucher Program ("HCVP" *f/k/a* "Section 8"), and performs certain designated functions in the oversight of various other privately-owned and/or managed affordable housing.

In administering the public housing program, HABC owns and operates approximately 8,400 conventional public housing rental dwelling units located in approximately 12 public housing developments and scattered site dwelling units throughout Baltimore City. The majority of HABC's properties are managed by HABC staff while certain HABC properties are managed by private companies under a contract with HABC.

**1.3 Scope of Services**

- 1.3.1 The Contractor(s) shall provide all labor, materials, equipment, supervision, permits, bonds, lead paint clearance testing, and all things incidental to completing vacancy renovation work at HABC owned vacant dwelling units located throughout Baltimore City.
- 1.3.2 Environmental: The Contractor(s) shall be knowledgeable of and comply with all applicable federal, state, and local laws, regulations, and requirements regarding environmental protection. In the event environmental laws/regulations change during the

term of the contract awarded the successful Responder(s), the Contractor is required to comply as such laws come into effect.

- 1.3.3 Work Safety: The Contractor(s) shall practice safety precautions, follow industry safety standards, and use only industry approved safety equipment in the performance of all work.

Contractor(s) shall maintain at all times all equipment in proper and safe operating conditions in accordance with the manufacturer's specifications. Contractor(s) shall keep tools, ladders, brushes, cans, cleaning materials, and other equipment only in the work areas and will not interfere with residents' use of the facilities.

Contractor(s) must be cognizant of safety at all times and take necessary safety precautions, so as to not cause harm to any persons or property while performing services under this RFP.

- 1.3.4 Work Conditions: Contractor(s) must provide supervision and other items, at Contractors' own expense, including all equipment, labor, material, permits, and all things incidental to perform the work.

- 1.3.5 Workmanship: Workmanship is to be of the highest quality standards and all units shall be extremely clean and ready for occupancy at the conclusion of the work. Damages caused by the Contractor will be the financial responsibility of the Contractor.

Contractor(s) shall have work crews, qualified by training and experience, and licensed to perform the required work. Contractor(s) shall have adequate staff to ensure units are completed as scheduled to include completed punch list items within thirty (30) calendar day of issuance of Notice-to-Proceed for each Task Order.

- 1.3.6 Task Order Procedures: Contractor and HABC shall walk each unit prior to work to inspect each vacant unit and identify the scope of work for each unit., HABC will approve the scope of work, project schedule, and price prior to issuance of a Notice-to-Proceed for each Task Order.

Contractor shall provide insurance and payment and performance bonds prior to issuance of a Notice-to-Proceed for each Task Order.

HABC will issue a Task Order with the approved scope of work. Contractor shall perform the specifications and standards as prescribed in the scope of work. Contractor shall report any condition that may prevent Contractor from providing services approved by HABC and/or completion of the work in accordance with the approved project schedule.

Contractor shall provide name and cell phone number of the project manager and alternate. The Contractor shall provide a project manager who shall be responsible for the performance of the work.

- 1.3.7 Contractor Response: Contractor shall begin work within two (2) days of receipt of a Task Order and scope of work and complete work as scheduled within thirty (30) calendar days

of issuance of Notice-to-Proceed for each Task Order. Each schedule will be approved by HABC prior to start of work.

- 1.3.8 Work Hours: Service hours are 8:00 a.m. until 4:00 p.m., Monday through Friday. Contractor shall provide services without causing disturbance to residents in the neighboring units.
- 1.3.9 Punch List: At the point of substantial completion, Contractor shall contact HABC to request a walk-through with designated HABC authorized personnel to inspect and accept the work. Contractor shall complete any punch list items within two (2) business days and notify HABC upon completion; a HABC authorized representative will re-inspect to confirm completion.
- 1.3.10 Final Cleaning: Upon completion of the work, Contractor(s) shall clean the work area and leave the unit in a clean and orderly condition. Contractor shall remove any waste and debris generated by the work and properly dispose of off-site.

## **PROPOSAL SUBMISSION INSTRUCTIONS**

### **2.1 Procurements Standards**

All matters and issues related to this RFP and any contract resulting from the RFP shall be governed by the procurement principles set forth in 2 CFR Part 200, the HUD Handbook on Procurement for Public Housing Agencies, Handbook 7460.8, REV-2 (2/2007); and the Statement on Procurement Policy for the Housing Authority of Baltimore City, and its implementing procedures. In the event of a conflict between this RFP, 2 CFR Part 200 and Handbook 7460.8, REV-2 or HABC procurement policy or procedures, the provisions 2 CFR Part 200 and Handbook 7460.8, REV-2 shall govern.

### **2.2 Estimated Selection Timetable**

HABC shall utilize the following estimated schedule to review proposals, select a firm and award a contract. However, Responders are advised that any failure on the part of HABC to complete the procurement within the estimated schedule shall not be grounds for a protest or claim by any Responder.

<b>Action</b>	<b>Estimated Date of Completion</b>
RFP issued and made available	Monday, March 2, 2020
Pre-Proposal Conference	Wednesday, March 11, 2020
Deadline for submitting questions	Tuesday, March 17, 2020
Issue responses to questions	Thursday, March 19, 2020
Proposal submission deadline	Friday, March 27, 2020
HABC completes initial review and rating of Proposals and competitive range established	Friday, April 3, 2020
Oral interviews, if necessary, completed	Friday, April 10, 2020
Best and Final Offer submission deadline	Friday, April 17, 2020
BAFO evaluation meeting	Wednesday, April 22, 2020
Contract Award	Friday, May 1, 2020

### **2.3 Submission of Response to the RFP**

Any party interested in being considered for award must submit a written proposal in response to this RFP in accordance with the instructions and terms hereunder. By submitting a proposal, the Responder agrees to be bound by the terms and conditions of this RFP.

### **2.4 Response Submission Deadline**

HABC must receive the Responder's proposal **by 2:00 p.m., Friday, March 27, 2020**, at the location designated in Section 2.5, below. It is the Responder's responsibility to ensure that the proposal is delivered by the designated time and date. Proposals, which for any reason are not delivered within the deadline, will not be considered and will be returned unopened to the Responder.

### **2.5 Place of Submission**

An original and five (5) copies of the typewritten and executed proposal, including all required information and certifications, must be submitted in a sealed envelope at the address below. The face of the envelope must contain, in addition to the address below, the RFP title and number stated above. Offers by telegram, telephone, electronic mail or facsimile, and handwritten proposals will not be accepted by HABC. All proposals must be delivered to:

Housing Authority of Baltimore City  
417 East Fayette Street, Suite 414  
Baltimore, Maryland 21202  
Attention: John Airey, Senior Contract Manager  
(410) 396-3261  
[john.airey@habc.org](mailto:john.airey@habc.org)

### **2.6 Pre-proposal Conference**

A non-mandatory pre-proposal conference will be held on **Wednesday, March 11, 2020 at 10:00 a.m.** in the Charles L. Benton Building, 417 E. Fayette Street, Room 416, Baltimore, Maryland 21202, during which prospective Responders have an opportunity to ask questions concerning the RFP. HABC strongly recommends that prospective Responders attend this pre-proposal conference.

### **2.7 Questions and Interpretations**

Any requests for interpretation or questions concerning this RFP must be submitted in writing to the address noted in Section 2.5 above and must be received no later than **4:30 p.m. on Tuesday, March 17, 2020**. Inquiries must reference the RFP number and title, and the deadline for receipt of proposals. No interpretations shall be considered binding unless provided in writing by HABC's Senior Vice President of Procurement or Senior Contract Manager.

### **2.8 Preparation of Proposal**

Responders are expected to examine all elements of the RFP including the Scope of Services, submission requirements, evaluation criteria, equal opportunity compliance requirements, the General Contract Terms and Conditions attached hereto as **Attachment 7**, and all instructions prior

to preparing the proposal. Failure to do so will be at the Responder's risk. Offers for services other than those specified will not be considered. All costs incurred, directly or indirectly, by the Responder including, travel, preparation, submission and miscellaneous expenses, in response to this RFP shall be the sole responsibility of the Responder and shall be borne by the Responder. Responders should make provisions for all costs and expenses related to the performance of the contract in their price proposal and should identify all such costs and expenses in the itemized breakdown of costs.

## **2.9 Execution of Proposal**

The original proposal and five (5) duplicates must each contain a manual original (or electronic) signature of an authorized representative of the Responder. All corrections made on the proposal must be initialed by the authorized representative of the Responder. The company name must appear on the cover sheet. The proposal must include all documents, materials and information required herein.

## **2.10 Mistakes in Proposals**

If a mistake in a proposal is suspected or alleged, the proposal may be corrected, at the sole discretion of HABC, or withdrawn during any negotiations that are held. If negotiations are not held, or if the best and final offer has been received, the Responder may be permitted to correct a mistake in its proposal and the intended correct offer may be considered if: the mistake and the intended correct offer are clearly evident on the face of the proposal; or the mistake is not clearly evident on the face of the proposal, but the Responder submits written evidence which clearly and convincingly demonstrates both the existence of a mistake and the intended offer, and such correction would not be contrary to the fair and equal treatment of other Responders. Mistakes discovered after award shall not be corrected unless the Contracting Officer makes a written determination that it would be disadvantageous to HABC not to allow the mistake to be corrected.

## **2.11 Attachments**

Each writing or other document referred to in this RFP as being attached hereto as an attachment or otherwise designated herein as an attachment hereto is hereby made a part of this RFP. The Responder is required to complete the certifications and representations attached hereto as part of the proposal package and shall be subject to the requirements therein.

## **2.12 Confidentiality**

There will be no public opening of proposals. All proposals and information concerning same shall remain confidential until all negotiations are completed, and the Notice of Award is issued. Responders are hereby notified that all proposals received by HABC shall be included as part of the official contract file. Therefore, any part of the proposal that is not considered confidential, privileged or proprietary under any applicable Federal, State or local law shall be available for public inspection upon completion of the procurement process. Notwithstanding the foregoing, the applicable provisions of Federal, State and local laws shall govern the confidentiality of proposals despite anything contrary to this provision stated in the proposal.

### 3. EQUAL OPPORTUNITY REQUIREMENTS

#### 3.1. **SUBCONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:**

- 3.1.1. **Statement of Policy:** It is the policy of HABC to ensure that Minority Business Enterprises ("MBEs"), and Women-owned Businesses ("WBEs"), as defined in Subsection 3.1.4 below, are provided maximum opportunity to participate in contracts administered by HABC. In accordance with Executive Orders 11625 and 12138 and 2 CFR §200.321. HABC encourages, and takes all necessary affirmative steps to, promote the use of MBEs and WBEs in HABC contracts.
- 3.1.2. **Definition of MBE:** For these purposes, an MBE is defined as: (a) any legal entity other than a joint venture, organized to engage in business transactions, that is at least fifty-one percent (51%) owned and controlled by one or more minority persons; and (b) has been certified as an MBE in accordance with Subsection 3.1.4 below. For these purposes, a minority person is defined as a member of a socially or economically disadvantaged minority group, which includes African-Americans, Hispanic-Americans, Native-Americans, and Asian-Americans. Notwithstanding the certification of a firm as an MBE, the ownership and control of such firm must be by one or more persons who meet the definition of minority persons hereinabove, in order for such firm to be considered an MBE.
- 3.1.3. **Definition of WBE:** For these purposes, an WBE is defined as: (a) any legal entity other than a joint venture, organized to engage in business transactions, that is at least fifty-one percent (51%) owned by a woman or women who are U.S. citizens and who control or operate the business.
- 3.1.4. **MBE and WBE Certification:** Any MBE or WBE proposed by the Responder to be utilized in the proposed contract must be certified as an MBE or WBE by an authorized public body or agency of a Federal, State, or local jurisdiction authorized under the applicable Federal, State, or local laws to make such certifications, in order for participation of such MBE or WBE to be applied toward the proposed MBE or WBE utilization. HABC does not certify MBEs or WBEs but will accept certifications from other authorized jurisdictions which meet the requirements herein stated. All certifications must be current as of the date of the proposal submission deadlines. Notwithstanding evidence of the certification of any firm as an MBE or WBE, HABC reserves the right to: (1) independently verify the status of such firm as an MBE or WBE; (2) review and make a final determination as to the appropriateness of the proposed utilization of a MBE or WBE, based on the a trade or profession for which the MBE or WBE has been certified; (3) reject the proposed use of a MBE or WBE based on non-compliance with the requirements of this Section 3.1; and (4) request additional information from the Responder necessary for HABC's review.
- 3.1.5. **Affiliated Entities.** Subject to 3.1.8, a Responder may not use an affiliated entity towards its MBE or WBE utilization without the prior approval of HABC. For these purposes, business concerns are considered affiliates of each other when,

either directly or indirectly, (a) one concern controls or has the power to control the other, or (b) a third-party control or has the power to control both.

**3.1.6. Award Considerations:**

A Responder that does not document its best efforts to subcontract with minority-owned business and women-owned business enterprises (“M/WBE(s)”) shall be considered non-responsive and ineligible for an award absent clear and concise documentation which describes M/WBE outreach efforts. For purposes of scoring a response to a competitive procurement, the fact that the response documents the Responder’s best efforts to subcontract with M/WBEs shall not, alone, result in any points being awarded to the Responder in the M/WBE scoring category (or otherwise).

If a Responder to a competitive proposal is an MBE or WBE, as defined in Subsection 3.1.4, the Responder’s proposal will be awarded a minimum of ten percent of the total points available for the scoring of the respective proposal. Responders may also obtain points in the M/WBE scoring category for a respective procurement if their proposal reflects that a minority owned business or women-owned business enterprise is a firmly committed partner of, or subcontractor to the responder. If a Responder’s proposal reflects no firm commitments with M/WBEs, either through a partnership or subcontracting, and the Responder is not itself a M/WBE, no points shall be awarded to the Responder in the M/WBE scoring category (a Responder’s commitment to use its best efforts to subcontract with M/WBEs shall not alone entitle the Responder to points during the scoring of proposals).

**3.1.7. M/WBE Utilization Plan:** The Responder must include the Responder’s M/WBE utilization plan (“M/WBE Utilization Plan”) describing the Responder’s strategy for achieving the M/WBE participation requirements if awarded a contract. The M/WBE Utilization Plan shall include the following:

- (a) A fully completed and executed Prime Contractor M/WBE Statement of Intent attached hereto as **Attachment 8**, completed for each M/WBE to be utilized in the proposed contract. The Responder shall ensure that the Prime Contractor M/WBE Statement of Intent contains all information therein requested including:
  - (i) The names, addresses, telephone numbers and contact person for each M/WBE that will be performing work on this project.
  - (ii) A specific description of the work to be performed by each M/WBE and the proposed schedule for delivery of services.
  - (iii) The fee structure showing the dollar amount to be awarded to each M/WBE to be utilized, and the total value of each proposed M/WBE subcontract.

- (b) A current and valid M/WBE certification for each M/WBE to be utilized.

**3.1.8. Affiliated Entity:** For any affiliated entity of the Responder proposed to be used towards the M/WBE utilization, a statement by the Responder disclosing:

- (a) The names and addresses of all persons or concerns exercising control or ownership of the Responder and each affiliated entity;
- (b) Whether or not such persons or concerns exercise such control or ownership as common officers, directors, stockholders holding controlling interest;
- (c) The date each such interest was acquired; and
- (d) The date of formation of such affiliated entity.

**3.1.9. Price Reasonableness:** HABC will not award a contract to any Responder whose price is deemed by the Contracting Officer to be unreasonable based on accepted government cost principles, irrespective of the Responder's success in meeting the proposed M/WBE utilization for the proposed contract.

**3.1.10. Request for Waiver of M/WBE Utilization Plan:** A waiver of the M/WBE participation requirements may be granted by HABC, in whole or in part, only upon a reasonable demonstration based upon documentary evidence submitted by the Responder that M/WBE participation was unable to be obtained or was unable to be obtained at a reasonable price. Any actual or prospective Responder that seeks a waiver of the M/WBE utilization must submit a written request for a waiver to HABC on or before the deadline for submitting proposals, with documentary evidence to support such waiver request. Such documentary evidence shall include, at the least:

- (a) Correspondence, records, and other documents showing: efforts made to contact and negotiate with M/WBEs;
- (b) A description of the specifications plans, bonding requirements, anticipated schedule of delivery and other pertinent information provided by the Responder to M/WBEs;
- (c) A list of M/WBEs that responded to solicitations or inquiries by the Responder including contact information of each M/WBE and quotes or proposals submitted by M/WBEs;
- (d) A list of M/WBEs contacted by the Responder and found to be unavailable including addresses and phone numbers of each M/WBE and dates of each such contact; and
- (e) A list of M/WBE directories, trade associations, local minority assistance organizations, and Federal, State and local government small business agencies contacted by the Responder for assistance in locating M/WBEs.

**3.1.11. Deadline for Submission of Request for Waiver of MBE or WBE Utilization:**

All requests for a waiver of the M/WBE utilization, in whole or in part, and required supporting documentation must be received in writing by HABC no later than deadline for submission of proposals. Any request for a waiver received after the deadline for submission of proposals will not be considered and may render the proposal subject to rejection.

**3.1.12. Additional Efforts:** In addition to the foregoing requirements, Responders should take the following steps to ensure that whenever possible, subcontracts are awarded to MBEs and WBEs such as the following:

- (a) Placing qualified MBEs, WBEs and small businesses on solicitation lists;
- (b) Dividing the total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MBEs, WBEs and small businesses;
- (c) Establishing delivery schedules where possible, in a manner, which encourages participation by MBEs, WBEs and small businesses;
- (e) Using the services and assistance of the United States Small Business Administration, the Minority Business Development Agency of the United States Department of Commerce, the Housing Authority of Baltimore City Office of Fair Housing and Equal Opportunity ("FH&EO"), the City of Baltimore Office of Minority and Women's Business Opportunity Office ("M/WBOO"), the local minority assistance organizations, and the various State and local government small business agencies. FH&EO is located at 417 East Fayette Street, Suite 401, Baltimore, Maryland 21202 and may be contacted by phone at 410-396-3246. M/WBOO is located at 100 N. Holliday Street, 1st Floor, Room, Baltimore, Maryland 21202 and may be contacted by phone at 410-396-4355.

**3.2. COMPLIANCE WITH SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

**3.2.1. Section 3 Requirements:** The successful Responder shall be required to comply with all applicable provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, and the regulations issued pursuant thereto, as set forth in 24 C.F.R. Part 135, and all applicable rules, directives and orders issued by HUD thereunder. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment generated by a Section 3 covered contract be given to public housing residents and other low income persons residing in the metropolitan area, and subcontracts in connection with such contracts be awarded to Section 3 covered business concerns which are located in, or owned in substantial part by persons residing in the areas of the project. The successful Responder shall be required to insert the Section 3 clause set forth in Section 21 of Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I, attached hereto as **Attachment 6**, in any subcontract resulting from the proposed contract.

**3.2.2. Section 3 Compliance Strategy:** The proposal must include the Responder's plan for complying with the requirements of Section 3 ("**Section 3 Compliance Plan**") if awarded the contract, as described in Section 10.2 (e) of this RFP below.

**3.2.3. Using PACE to Satisfy Section 3:** To assist the Responder in its effort to comply with the Section 3 requirements, Responders are to contact the HABC Office of Resident Services, People Accessing Continued Employment Program (P.A.C.E.); and use other employee recruitment services only if P.A.C.E. has no qualified referrals that meet the Responder's employment, training or subcontracting needs. P.A.C.E. is an employment initiative funded by HABC to provide direct job placement, support services, and post placement support, skills training opportunities, job replacement and job retention services. (See Attachment 9C to be completed by the Responder.)

**3.2.4. Section 3 Obligations of Contractor:** Responder shall review **Attachment 9A**, which sets forth obligations of Responder for purposes of compliance with Section 3.

#### **4. INSURANCE REQUIREMENTS**

##### **4.1 Required Coverage**

The proposal package must include evidence of the Responder's ability to provide Worker's Compensation Insurance; General Liability Insurance; Comprehensive Automobile Liability Insurance; and if applicable to the services requested hereunder, Professional Liability (Errors and Omissions) Insurance coverage, as set forth in Section 19, of the Attached General Contract Terms and Conditions, **Attachment 7** hereto. Such insurance shall be procured from a company licensed to do business in the State of Maryland and placed with a carrier possessing an A.M. Best's Rating of B+VI or better and maintained for the entire duration of the proposed contract. Deductible levels shall not exceed \$1,000 per occurrence on any policy. HABC must be named as an additional insured on all policies as applicable, and the policy must provide that coverage cannot be canceled without notice to HABC at least thirty (30) days before the effective date of such cancellation. HABC reserves the right in, its sole discretion, to raise, waive or reduce in limits, any insurance coverage required under the proposed contract.

##### **4.2 Proof of Insurance Upon Notice of Award**

Within ten (10) days of the date of the Notice of Award, the successful Responder shall furnish to HABC a certified copy of the Certificate of Insurance for the policy or policies covering all work or services under the proposed contract as evidence that the required insurance is maintained and in force for the entire duration of the contract. HABC may, at its sole discretion, immediately cancel the contract award without prior notice to a successful Responder upon any failure to submit timely any or all the required Certificates of Insurance and all other documents required under the proposed contract. In such case, all existing agreements between HABC and the successful Responder shall immediately become null and void upon such cancellation.

## **5. CONTRACTOR RESPONSIBILITY REVIEW**

### **5.1 Review Standards**

HABC shall award contracts only to responsible contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. Therefore, following proposal evaluations, HABC shall assess the responsibility of the highest rated firm prior to award of the contract. HABC's determination of contractor responsibility shall include, but not be limited to consideration of the following:

- (a) Integrity;
- (b) Compliance with public policy, including compliance with applicable Federal, State and local laws, regulations, codes and ordinances;
- (c) Record of past performance;
- (d) Financial and technical resources (including computer and technical equipment, cyber security measures for on-line and in-person payments); and
- (e) Eligibility for award of a federally assisted contract (e.g., debarment).

### **5.2 Request for Additional Information**

In assessing the Responder's responsibility, HABC may request the Responder being considered for award to submit additional information, statements, and/or other documentation regarding any of the factors enumerated above. Failure of such Responder to provide such additional information within the time requested by HABC may render the Responder ineligible for award.

## **6. CONTRACT AWARD**

### **6.1 Form of Award**

By submitting a proposal, the Responder agrees if it is issued a written Notice of Award, it shall be bound by a contract whose provisions shall be substantially the same as (i) the terms and conditions of the RFP including all attachments, and (ii) the terms and conditions of the proposal acceptable to HABC. Acceptance of the Responder's proposal to perform the services specified in this RFP will be made by written Notice of Award from HABC to the successful Responder. Responders are not entitled to rely on any representations by any employee, member, officer, or representative of HABC concerning the contract award until written Notice of Award is provided by HABC. Responders are advised that the contract documents may include all terms and conditions required by HUD and/or HABC for a contract of this type and nature.

### **6.2 Reservation of Rights as to Negotiation of All Elements of the Proposal**

HABC reserves the right to negotiate all elements of the proposal including price, with Responders in the competitive range.

### **6.3 Basis of Contract Award**

Following the evaluation of proposals, HABC shall award an indefinite-delivery indefinite-quantity ("IDIQ") contract(s) with a minimum contract value of \$10,000 and a not-to-exceed amount of \$750,000, to one or more responsible Responders whose proposals will be most

advantageous to HABC, considering price and any other factors specified in this RFP. The contract, also referred to as a task-order contract, will be for services as requested by HABC during the term of the proposed contract on a task order ("Task Order") basis. The services shall be provided to HABC, when and if ordered by HABC pursuant to a Task Order. The selected firm(s) shall provide the requested services for each Task Order for a firm fixed price to be negotiated by the parties based on the hourly rates proposed by the Responder in **Attachment 1**. HABC shall issue a minimum of one (1) Task Order to each selected firm during the contract period, with an estimated value of \$10,000.00 for each Task Order; however, no guarantees will be made by HABC as to any amount above \$10,000.

#### **6.4 Reservation of Rights as To Contract Award**

HABC does not guarantee (i) any minimum amount of a contract awarded hereunder; nor (ii) the extent, quantity or portion of any services to be performed or items to be provided pursuant to an award to the successful Responder. Further, HABC may in its sole discretion, and without liability to any Responder(s): (a) reject any and all proposals received; (b) accept other than the lowest priced proposal; (c) waive any minor irregularities or technicalities in proposals received; (d) accept any item or combination of items proposed unless precluded elsewhere in the solicitation; (e) amend this solicitation as permitted by applicable law; (f) cancel this solicitation in its entirety or any portion thereof; and/or (g) rescind any notice of award issued to any Responder(s).

#### **6.5 Rejection of Materially Unbalanced Proposals**

HABC may reject any proposal as unacceptable if it is materially unbalanced as to the prices for the various items of work to be performed. A proposal is materially unbalanced when it is based on prices significantly less than cost for some work and prices, which are significantly overstated for other work.

#### **6.6 No Effect of Reservation of Rights on Contract Formation**

HABC's reservation of rights shall in no way affect the formation of a contract upon written notice of award by HABC to the successful Responder unless the notice of award is rescinded. HABC makes no guarantees as to amount of award, if any.

### **7. CONTRACT PRICE**

The successful Responder(s) will be paid a fixed annual fee for preventive maintenance services outlined in Section 1.3 Scope of Services of this RFP. The successful Responder(s) will be paid based on a time and material basis for on-call services provided.

### **8. CONTRACT TERM**

#### **8.1 Contract Term**

The contracts resulting from this RFP shall provide for a term of not to exceed one (1) calendar years, except that HABC shall have a unilateral option to renew the contract(s) upon the same terms and conditions for up to four (4) additional one (1) year periods, subject to all necessary

HUD approvals. Unless otherwise stated in the contract, the contract term shall commence on the date specified in the Notice-to-Proceed or Purchase Order issued by HABC.

## **8.2 Time and Order of Work**

The successful Responder shall be readily available and capable of immediately assuming all duties involved in the representation of HABC upon award and shall can meet all deadlines.

## **9. SELECTION CRITERIA**

### **9.1 General**

Selection of a firm to render services pursuant to this RFP will be made in accordance with HUD and HABC procurement regulations. All proposals received by the time and date specified in this RFP shall be evaluated by the RFP Evaluation Panel based on the following criteria and weights:

<b>Evaluation Criteria</b>	<b>Maximum Points</b>
<b>a. Experience and Past Performance</b>	10
<b>b. Qualifications</b>	10
<b>c. Staffing Plan</b>	10
<b>d. References</b>	10
<b>e. MBE and WBE Utilization Plan</b>	10
<b>f. Section 3 Compliance Strategy (Also see Note below)</b>	10
<b>g. Fee Proposal</b>	40
<b>TOTAL</b>	100

#### **NOTE**

**Section 3 Preference: A Responder that qualifies as a Section 3 Business Concern may be awarded additional preference points prior to award of the contract.**

**(See Attachment 10 "Certification for Business Concerns Seeking Section 3 Preference" for explanation of how Section 3 Preference bonus points are determined.) Category 1 Business – 20 pts; Category 2 Business – 15 pts; Category 3 Business – 10 pts.; Category 4 Business – 5 pts.**

## **10. SUBMISSION REQUIREMENTS**

**10.1 Summary of Submission Requirements:** An original and five (5) copies of the typewritten, executed proposal must be properly executed and submitted in a sealed envelope. Responders are requested to provide a definitive plan for carrying out the tasks as provided in the above scope of work and general selection criteria. The proposal shall include the information requested in the following section.

## 10.2 **Contents of Proposal:**

- (a) **Experience and Past Performance (10 Points)** – Responder shall provide a narrative as documented evidence of relevant experience & past performance as to demonstrated successful experience with performing the Scope of Services.
- a. Provide number of years' experience and detail of experience with vacant unit renovations at scattered site dwelling units.
  - b. Responders without renovation experience may provide documented evidence of relevant general contracting experience.
- (b) **Qualifications (10 Points)** – Responder shall provide documentation to substantiate managerial capacity and financial viability to include concise description of its managerial and financial capacity and work utilization plan to deliver the proposed services, to include:
- a. Project Management Ability: Concise description of organizational structure, management and staff's expertise, include resumes and qualification of management and alternative key staff.
  - b. Organizational chart, proof business entity to provide license services in the City of Baltimore, training and experience of the individual(s) to be assigned to HABC vacancy renovations.
  - c. Evidence of financial stability and capacity to deliver the proposed services including most recent financial statements and most recent audit if available.
- (c) **Staffing Plan (10 Points)** – Responder shall provide a narrative and documentation that represents technical approach and capacity to provide services in sufficient quantity and quality required to respond in a timely manner and complete work as scheduled to include:
- a. Staffing – Plan that details the technical approach and capacity i.e. number of crew size, utilization plan, equipment and materials. Include length of services, training, experience. Identify the number of individuals by work classification.
  - b. Oversight – Method of assigning work and procedures for maintaining level of services, plan of services and the coordination of contractor's personnel, subcontractors and suppliers to comply with the timeframe.
  - c. Quality Control – Plan to ensure the requirements of the scope of services are achieved. Responders are encouraged to be specific to include quality control and oversight.
- (d) **References (10 Points)** – Provide a minimum of five (5) former or current clients for whom the Responder has provided vacant unit renovations or general contracting as described in the scope of services within the past three (3) years. For each client provide: Client's name, telephone number and address; Description of service provided to the client, date of services, including

completion time frame and days over/under schedule, pictures of recent projects and completed projects, Budget, amount of change orders requested, average number of punch list items, status of work (active, complete, closed).

**(d) MBE and WBE Utilization in the Project (10 Points)**

- (i) Responders are advised to review in its entirety, the M/WBE utilization policy set forth in Section 3 above and in this Section before preparing and submitting their proposals. Proposals that do not address the M/WBE participation or waiver requirements set forth in this RFP may be deemed unacceptable.
- (ii) Responders shall provide the information requested in Subsection (iii) (A) below, or if the Responder is unable to meet the M/WBE utilization goals in part or in whole, the Responder shall submit with its proposal, a request for a waiver in the manner described in Subsection (iii) (B) below:

**(iii) Minimum Proposal Contents for MBE/WBE Utilization:**

- (A) **MBE/WBE Utilization Plan.** The Responder shall provide its plan for achieving M/WBE utilization for the proposed contract ("**M/WBE Utilization Plan**"), which shall include, at a minimum, the following information:
  - (1) The names, addresses, telephone numbers and contact person for each M/WBE that will be performing work on this project. **Further review Section 3 to ensure that proposed M/WBE subcontractors will meet the standards necessary to be counted towards the M/WBE utilization.;**
  - (2) A specific description of the work to be performed by each MBE/WBE and the proposed schedule for delivery of services;
  - (3) The fee structure showing the dollar amount to be awarded to each M/WBE to be utilized, and the total value of each proposed M/WBE subcontract towards the M/WBE utilization;
  - (4) A letter of intent between the Responder and each M/WBE agreeing to enter into a contract in the event that the contract proposed hereunder is awarded to the Responder; and
  - (5) A current and valid M/WBE certification for each M/WBE to be utilized.
- (B) **Request for Waiver:** If the Responder is unable to meet all or part of the M/WBE utilization for the proposed contract for the grounds set forth in Section 3 above, the Responder may request a waiver of the M/WBE participation by submitting a written request for a waiver with supporting documentary evidence, all of which must be submitted by the Responder with its proposal on or before the deadline for proposal submission. The documentary evidence must reasonably demonstrate that M/WBE

participation was unable to be obtained or was unable to be obtained at a reasonable price, as discussed in Section 3 above. Such evidence shall include, at the least:

- (1) Correspondence, records, and other documents showing efforts made to contact and negotiate with M/WBEs;
  - (2) A description of the specifications, plans, bonding requirements, anticipated schedule of delivery and other pertinent information provided by the Responder to M/WBEs;
  - (3) A list of M/WBEs that responded to solicitations or inquiries by the Responder including contact information of each M/WBE and quotes or proposals submitted by M/WBEs;
  - (4) A list of M/WBEs contacted by the Responder and found to be unavailable including addresses and phone numbers of each M/WBE and dates of each such contact; and
  - (5) A list of M/WBE directories, trade associations, local minority assistance organizations, and Federal, State and local government small business agencies contacted by the Responder for assistance in locating M/WBEs.
- (f) **Section 3 Compliance Plan (10 Points)** - Provide a description of your strategy for complying with the Section 3 requirements ("**Section 3 Compliance Plan**"). (See **Attachment 9B** to be completed by Responder). Responders may comply with Section 3 by providing employment and/or training opportunities to residents of HABC public housing and/or other low-income persons for the performance of this contract, subcontracting with resident-owned businesses and/or other Section 3 businesses, or a combination of employment, training and/or subcontracting as described above. This requirement applies to Section 3 and non-Section 3 businesses. Section 3 is a HUD requirement that cannot be waived by HABC. Therefore, Responders are advised to review the following information in preparing and submitting their proposals:
- (i) If you plan to comply with Section 3 by providing employment and/or training opportunities to residents of HABC public housing and/or other Section 3 persons, your Section 3 Compliance Plan must provide all information regarding any hiring/training you will be conducting including a description of the employment/training duties, work hours, and salaries. Responders are required to submit, with their proposals, their workforce requirements for performing the proposed contract regardless of whether additional hiring will be done. If additional hiring will not be done, the Responder must, to the greatest extent feasible and consistent with all applicable laws, provide training to Section 3 persons.
  - (ii) If you plan to meet Section 3 requirements by subcontracting with Section 3 businesses, your Section 3 Compliance Plan must provide the names, addresses and telephone numbers of all Section 3 businesses that will be performing work on this project. Provide a description of the work to be performed by such firms and a proposed percentage of the total contract dollar amount that will be awarded to each

firm. You must include a letter of intent between your firm and each Section 3 business with which you will subcontract if you are awarded the contract. It is the Responder's responsibility to provide proof that such firms meet the definition of Section 3 business concern as established by HUD. See 24 CFR Part 135.5 for definitions of Section 3 business concerns or contact the HABC Office of Fair Housing and Equal Opportunity (FH&EO) at (410) 396-3246 for additional information.

- (iii) If you are claiming preference as a Section 3 business concern, your Section 3 Compliance Plan must include an explanation for your claim to be a Section 3 business concern along with proof of your firm's eligibility for preference as a Section 3 business concern. See 24 CFR Part 135.5 for definitions of Section 3 business concerns or contact FH&EO for additional information. Firms claiming eligibility for Section 3 preference must also submit a Section 3 compliance strategy.
- (iv) In the event that you determine that it is not feasible to comply with Section 3, you must state with specificity, in your Section 3 Compliance Plan, the reasons why you cannot comply with Section 3. Any Responder that has determined that it is not feasible to comply with Section 3 assumes the risk that its claim of non-feasibility will be deemed unacceptable by HABC. (See **Attachment 9B** to be completed by Responder).

**(g) Fee Proposal (40 points)-**

Responders must provide fixed unit pricing to include all labor, materials, equipment, supervision, permits, bonds, lead paint clearance testing, and all things incidental to completing vacancy renovation work at HABC owned vacant dwelling units located throughout Baltimore City.

The cost principles (subpart E) set forth in 2 CFR 200.404 and HUD Handbook 2210.18, will be used to determine price reasonableness. HABC may award the contract to other than the lowest prices offered. In the event that two offers are considered technically equivalent, the evaluated price will be of primary importance in determining the proposal most advantageous to HABC. Offers need not have received identical numerical scores to be considered technically equivalent.

**11. PROPOSAL EVALUATION AND SELECTION PROCESS**

**11.1 General**

HABC will use the following procedure to evaluate the Proposals and select a finalist. All proposals received by HABC within the established deadline will be evaluated by the RFP Evaluation Panel.

**11.2 RFP Evaluation Panel**

An RFP Evaluation Panel consisting of at least three (3) voting members will be established. The RFP Evaluation Panel shall consist of HABC employees and may also include HABC residents

and consultants, and Baltimore City personnel and consultants. HABC may also identify non-voting technical advisors to the Panel.

### **11.3 Proposal Evaluation**

The Contracting Officer will forward Proposals that comply with the submission requirements to the RFP Evaluation Panel. Each such Proposal will be evaluated by the RFP Evaluation Panel using the selection criteria set forth in Section 10 of this RFP and scored based on the information contained in the Proposal. Factors not specified in the RFP shall not be considered. Each Proposal will be considered on its own individual merit and not analyzed in comparison with other proposals. Each panel member assigning points shall be asked to provide a written narrative justification to support the rating given. The sum of the points assigned to each Proposal by an individual panel member shall be known as the Responder's "Raw Score." The evaluation panel chairperson shall fill out a composite worksheet displaying each panel member's Raw Score for each Proposal. The chairperson shall then average all the panel members' Raw Scores for each Responder and post these numbers as the "Final Score" for each Responder. Each Proposal shall be rated acceptable, potentially acceptable, or unacceptable based on the Final Score received.

### **11.4 Competitive Range**

A competitive range will be established based on the rankings of the Responders and the proposals will be classified as acceptable, potentially acceptable or unacceptable. Proposals determined to be acceptable or potentially acceptable and that have a reasonable chance of award shall be included in the competitive range. HABC reserves the right to limit the number of Responders to be included in the competitive range based on the number of proposals received, total scores of proposals, and relative rankings of proposals. Further, HABC reserves the right to establish a minimum score for the competitive range. Responders whose proposals are classified as unacceptable shall be excluded from the remainder of the selection process and notified accordingly.

### **11.5 Oral Presentations/Interviews**

At the sole discretion of HABC, Responders who are considered by the evaluation panel to be competitive, based on the total scores received and relative rankings of Responders, may be asked to make a presentation of the proposal during any negotiations that may be held. The purpose of the presentation will be to provide an opportunity to the Responder to clarify its proposal, respond to questions from HABC, and substantiate representations in the proposal. No comments about other Responders or other proposals will be permitted and Responders shall not be permitted to attend presentations by other Responders. A time limit for presentations shall be imposed. Responders invited to make presentations shall be informed of the date and time of the presentation and the time limit for completing such presentation. Evaluations may be revised based upon information provided by the Responders in the oral presentation.

### **11.6 Negotiations**

Negotiations, oral and/or written, may be conducted by HABC or its authorized representatives with all responsible Responders whose offers are within the competitive range. HABC reserves

the right to conduct negotiations, oral and/or written, on any element of the contract including price, with all responsible Responders whose offers are within the competitive range.

#### **11.7 Best and Final Offers**

Responders in the competitive range may be provided an opportunity to change or revise their proposals to reflect any changes resulting from the negotiations, if any, in the form of a written "Best and Final Offer" ("BAFO"). The BAFO will be evaluated by the RFP Evaluation Panel based on the evaluation criteria stated in the RFP. Such BAFO will be treated as a firm proposal in place of the proposal originally submitted. If no revised proposal is received from any such Responders in the competitive range within the deadline provided for submitting the BAFO, the originally submitted proposal will be treated as the BAFO.

**If your company qualifies as a Section 3 Business Concern, and your proposal is deemed to be in the competitive range, you may qualify for additional points prior to the award of the contract. See, also, Attachment 9C: "Certification for Business Concerns Seeking Section 3 Preference in Contracting," for designation of four categories upon which preference points may be awarded.**

#### **11.8 Standard for Contract Award**

Any contract awarded pursuant to this RFP shall be made to the responsible Responder whose proposal is determined to be the most advantageous to HABC, price and technical factors considered. Award will not necessarily be made to the Responder submitting the lowest price.

#### **11.9 Award Without Discussions**

Notwithstanding the foregoing, HABC reserves the right to make an award without discussions based solely on original proposal scores. HABC will make an award to the responsible Responder whose offer conforms to the solicitation and is the most advantageous to HABC (i.e., that which represents the best value to HABC), price and evaluation factors considered.

### **12. PROTEST PROCEDURES**

#### **12.1 Protest of Procurement Action:**

**12.1.1 Who May File:** Any actual or prospective bidder/responder to an HABC solicitation whose direct economic interest would be directly affected by the award of the contract, may protest a solicitation or a contract award only for alleged material violations of the principles of this Policy; HUD procurement regulations; and applicable Federal, State and local laws.

**12.1.2 Filing Deadline:** A protest against a solicitation must be received from the prospective bidder/responder before the due date for receipt of bids or proposals. A protest against the award of a contract or cancellation of a solicitation must be received within ten (10) calendar days after notice of contract award or notice of cancellation of a solicitation, or the protest will not be considered.

**12.1.3 Filing Procedure:** All protests shall be in writing, submitted to the Contracting Officer.

**12.1.4 Contracting Officer's Decision:** The Contracting Officer shall investigate as appropriate and shall issue a written decision on the matter expeditiously after reviewing all relevant information. The Contracting Officer's decision shall inform the protester of any appeal rights within HABC. The Contracting Officer may, at his or her discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented. The filing of a protest shall not prevent HABC from entering into a contract with the successful bidder/responder.

**12.2 Appeal Rights:**

**12.2.1 Appeal to HABC Board:** The decision of the Contracting Officer in a protest may only be appealed to the HABC Board if the decision involves a protest of a solicitation or contract award in excess of \$500,000.

**12.2.2 Deadline for Appeal:** All such appeals must be submitted to the HABC Board by the protester in writing within fourteen (14) calendar days from the date of the Contracting Officer's decision.

**12.2.3 HABC Board's Consideration of Appeal:** The Board may consider a properly and timely filed appeal by public hearing, or by appointment of a hearing officer who shall hear the appeal, make findings of fact, and recommend a decision to the Board on the appeal.

**12.2.4 Final Determination of the Board:** The Board shall have the sole authority to enter a final decision on the appeal, based on the recommendation of the hearing officer or based on a hearing of the Board. The decision of the Board shall be the final HABC consideration of the appeal. Notwithstanding any clause contained in any solicitation or contract document, a protest or appeal shall not be referred to a mediator or arbitrator unless HABC expressly gives written consent to such mediation or arbitration at the time the protest or appeal arises. For purposes of this Policy, HUD shall not be considered a mediator or arbitrator.

**HOUSING AUTHORITY OF BALTIMORE CITY  
REQUEST FOR PROPOSALS  
VACANT UNIT RENOVATIONS  
RFP NUMBER: B-1908-20**

\*\*\*\*\*

**LIST OF ATTACHMENTS**

Attachment 1	Fee Schedule Certification and Affidavit of Non-Collusion
Attachment 2	HABC Conflict of Interest Statement
Attachment 3	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transactions
Attachment 4	Authorization of Responder for Verification of References
Attachment 5	HUD Certifications
Attachment 6	Form HUD-5370 General Conditions for Construction Contracts
Attachment 7	HABC Contract Terms and Conditions
Attachment 8	Prime Contractor MBE Statement of Intent
Attachment 9A	Section 3 Obligations of Contractor
Attachment 9B	Section 3 Compliance Plan
Attachment 9C	First Source Hiring Agreement
Attachment 10	Certification for Business Concerns Seeking Section 3 Preference in Contracting
Attachment 11	Form HUD-5369-B Instructions to Offerors Non-Construction
Attachment 12	Form HUD-5369-C Certifications and Representations of Offerors
Attachment 13	General Wage Decision

Responders must complete and submit with the proposal Attachments 1,2,3,4,5,8,9B,9C and 12.

## ATTACHMENT 1- FEE SCHEDULE CERTIFICATION AND AFFIDAVIT OF NON-COLLUSION

By signing below, the Responder, by its undersigned authorized Official, hereby certifies and affirms under penalties of perjury that: (a) costs, prices and/or fees and services proposed or to be proposed at a later date, have been made or shall be made without prior agreement, understanding, or connection with any corporation, firm or person submitting a response to this solicitation as the prime contractor, or proposed as a subcontractor, and are/shall be fair and without fraud; (b) that the Responder has not colluded, conspired, connived or agreed, directly or indirectly with any Responder or person to put in a sham proposal or qualifications statement, or to refrain from competing for the proposed contract, and has not in any manner, directly or indirectly, sought by agreement, collusion, or communication with any person to fix the proposed prices or any element of the proposal or qualifications statement, or to secure any advantage against HABC or any person; (c) that the Responder agrees to be bound by all conditions of this proposal/qualifications statement and (d) that this Official is authorized to sign this affidavit for the firm.

**SECTION A: Unit Pricing** (General Decision Number: MD20200061, Modification No. 0, Dated 01/03/2020) The Contractor shall supply all labor, material, supervision, equipment, insurance, permits and all other incidentals required to complete the work items listed below as requested by HABC, in accordance with all applicable federal, state and local regulations.

### **Description**

### **Unit Price**

#### **Demolition, Concrete, Masonry**

1. Clean Out Interior of Dwelling Unit	\$ _____ /LS
2. Gut Demolition	\$ _____ /SF
3. Selective Demolition	\$ _____ /SF
4. Yard/Exterior Trash, Haul, Dispose	\$ _____ /CF
5. Remove Trees	\$ _____ /EA
6. Supply and Install 4' Chain Link Fence & 3" Gate	\$ _____ /LF
7. Replace Sidewalk 4"	\$ _____ /SF
8. Supply and Install Topsoil & Sod	\$ _____ /SF
9. Repair Cornice	\$ _____ /LF
10. Replace Cornice	\$ _____ /LF
11. Repair/Rebuild Masonry Wall	\$ _____ /SF
12. Replace Front Entry Steps	\$ _____ /RISE
13. Clean Masonry Wall (Paint or Stucco)	\$ _____ /SF
14. Point Masonry Wall	\$ _____ /SF
15. Repair and Coat Stucco	\$ _____ /SF
16. Paint Exterior or Basement Wall w/Epoxy	\$ _____ /SF
17. Exterior Railing	\$ _____ /LF
18. Scrape & Paint Fire Escape	\$ _____ /RISE
19. Repair or Replace Fire Escape	\$ _____ /RISE
20. Clothes Pole	\$ _____ /EA
21. Parge Basement Wall	\$ _____ /SF
22. Replace Basement Floor Slab 4"	\$ _____ /SF
23. Corrugated Foundation Drain	\$ _____ /LF
24. Sump Pump & Pit	\$ _____ /EA

**Kitchen**

24. Kitchen Cabinets – HUD Severe Use	\$ _____ /LF
25. Countertops – Postformed Wilsonart Black Granite Laminate	\$ _____ /LF
26. Rangehood – Broan #4100	\$ _____ /EA
27. Refrigerator – GE Energy Star 16.5 Cu Ft Top – Freezer – Model #GTH17DBDBB	\$ _____ /EA
28. 30" Free Standing Gas Range – Hot Point Model #RGB300DMBB	\$ _____ /EA
28. Supply and Install Kitchen Sink and Faucet	\$ _____ /EA

**Bathroom**

29. Tub Surround w/Soap Dish – ProSeries Heavy Duty	\$ _____ /EA
30. Bathtub w/ Shower Fixtures	\$ _____ /EA
31. Toilet – Niagra Power One 1.0	\$ _____ /EA
32. Vanity Cabinet – HUD Severe Use	\$ _____ /EA
33. Vanity Bowl w/ Faucet – Crane #2716NS	\$ _____ /EA
34. Medicine Cabinet w/ Mirror	\$ _____ /EA
35. 5-Piece Accessories	\$ _____ /EA
36. Exhaust Fan – Broan #688 Ceiling / Wall Fan	\$ _____ /EA

**Carpentry, Roofing, Insulation**

37. Supply and Install ¼" Underlayment	\$ _____ /SF
38. Floor Deck Replacement (Complete)	\$ _____ /SF
39. ½" Roof Plywood Over Existing	\$ _____ /SF
40. Roof Deck Replacement (Complete)	\$ _____ /SF
41. Frame Interior Partition Walls – 4"	\$ _____ /LF
42. Furr Party Walls – 4"	\$ _____ /LF
43. Furr Front/Rear/ Exterior Walls – 6"	\$ _____ /LF
44. Wood Box Stairs (Yellow Pine)	\$ _____ /RISE
45. 4" Wood Ranch Base	\$ _____ /LF
45. 4" Cove Base	\$ _____ /LF
46. Window/Door Casing	\$ _____ /LF
47. Window Apron & Stool	\$ _____ /LF
48. Interior Wood Handrail w/ Brackets	\$ _____ /LF
49. Closet Shelving & Rod	\$ _____ /LF
50. Misc. Wood Trim/Carpentry/Casework	\$ _____ /SF
51. Roof Membrane (25 Year Modified Cap) PolyFlex G, White Granulated Cap Sheet (Torch Applied)	\$ _____ /SF
52. Gutter "k" 5"-6" White Aluminum	\$ _____ /LF
53. Downspout 3"x4" Aluminum – Including drop, hanger, elbow	\$ _____ /LF
54. 3"-4" PVC Schedule 40 Downspout – Including transition elbow and cleanout	\$ _____ /LF
26. Cleanout Gutter and Downspout	\$ _____ /LF
27. Install Gutter Guard	\$ _____ /LF
53. Caulking, Exterior	\$ _____ /LF
54. Insulation, R-19 Walls	\$ _____ /SF
55. Insulation, R-30 Roof	\$ _____ /SF

**Windows & Doors**

56. Vinyl Energy Star Windows – MI Series 1450	\$ _____ /EA
57. Wood Windows	\$ _____ /EA
58. Wood Exterior Door & Frame	\$ _____ /EA
59. Metal Exterior Door & Frame - HD Wood-Edge High Definition Steel Entry Door	\$ _____ /EA

60. Interior 6 Panel Masonite Pre-hung Doors	\$ _____/EA
61. Interior Door Hardware (Entry / Passage)	\$ _____/EA
62. Exterior Door Hardware	\$ _____/EA

#### **Finishes**

63. Drywall Repairs – 1/2"	\$ _____/SF
64. New Gypsum Wallboard – 1/2"	\$ _____/SF
65. 12" x 12" x 1/8" VCT Floor Tile - Congoleum AL136, Warm Stone	\$ _____/SF
66. Rigid Core Luxury Vinyl Flooring - Lifeproof	\$ _____/SF
67. Vinyl Stair Tread - Armstrong	\$ _____/EA
68. Vinyl Riser - Armstrong	\$ _____/EA
69. Interior Paint – 2 Coats Sherwin Williams, Low VOC	\$ _____/SF
70. Paint Doors & Windows	\$ _____/EA
71. Vinyl Window Shades	\$ _____/EA
72. Window Grills	\$ _____/EA

#### **Plumbing, Mechanical, Electrical**

73. Gas Distribution (Stove, W/H, Furnace)	\$ _____/EA
74. Water Distribution (Bath, W/H, Kitchen)	\$ _____/EA
75. Gas Water Heater – Bradford White Energy Star, Model #RG2PV50H6N	\$ _____/EA
76. Drain, Waste & Vent (Baths, Kitchens)	\$ _____/EA
77. Gas Furnace w/ Air Conditioning, Hi-Efficiency Goodman Single Stage Multi-Speed GMSS92/GC92 90+ Goodman Air Condition 14 SEER Performance	\$ _____/EA
78. Air Duct Distribution	\$ _____/SF
79. Electrical Service Panel	\$ _____/EA
80. Replace Switches & Receptacles	\$ _____/EA
81. Electrical Branch Wiring, Devices	\$ _____/LF
82. Lighting Fixtures – 9 Inch #IPF3011L/BN	\$ _____/EA
82. Lighting Fixtures – 13 Inch #HUI8011LL/BN	\$ _____/EA
82. Exterior Light Fixture – Nuvo-60-2203 & 77-728 Bulbrite 33113 13 w/fluorescent Bulbs	\$ _____/EA
83. Smoke / CO2 Detector – BRK-SC-9120B	\$ _____/EA

**SECTION B: Additional Labor Hours:** - (General Decision Number: MD20200061, Modification No. 0, Dated 01/03/2020) When requested by HABC, Contractor shall provide labor to complete tasks not described in Section A above.

#### **Additional Man Hours:**

83. Carpenter	\$ _____/HR
83. Electrician	\$ _____/HR
83. Plumber	\$ _____/HR

**Section C-** (Miscellaneous materials as needed) Percentage Mark-up (Maximum 15%) \_\_\_\_\_%

#### **Notes:**

1. The contract resulting from this solicitation will be a requirements contract. Services and tasks to be performed under this contract will be provided by the successful bidder as requested by HABC. HABC makes no guarantee or representation concerning the actual number of tasks and/or usages to be assigned to the Contractor.

2. Items listed above are brand names or HABC approved equal.
3. The Bidder shall provide bids in accordance with the above scheduled unit prices. Such prices shall remain in effect for one (1) calendar year from the date of the contract and for one option year at HABC's sole discretion.
  - a. After the initial one-year period and one-year option period, if applicable, unit prices may be adjusted based on documented, substantiated labor/material cost increases.
  - b. Notification of the vendor's request for price increase for any one-year option period subsequent to the first one-year option period, if applicable, must be submitted and received at the HABC Procurement Department within sixty (60) days, but not more than ninety (90) days, prior to the ending date of the current contract year.

HABC reserves the right to accept or reject any such request for price adjustments.

4. Contractor must be in compliance with Attachment- 9 Wage Determinations:
  - General Decision Number: General Decision Number: General Decision Number: MD20200061, Modification No. 0, Residential Construction Projects, Baltimore City Only (Consisting of single-family homes and apartments up to and including 4 stories).

**[End Attachment 1]**

## **ATTACHMENT 2: CONFLICT OF INTEREST STATEMENT**

*The terms "Contractor" or "Offeror" or "Bidder" shall have the same meaning and shall refer to the selected firm(s) under the bid.*

### **PART I. CONFLICT OF INTEREST**

1. Neither the Housing Authority of Baltimore City (HABC) nor any of its contractors or their subcontractors may enter into any contract or arrangement in connection with a project in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

a. Any present or former member or officer of the governing body of HABC or any member of the immediate family of such member or officer. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policy-making position with the resident corporation, HABC or a business entity.

b. Any employee of HABC who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

c. Any public official, member of the local governing body, or State or local legislator, or any member of such individual's immediate family, who exercises functions or responsibilities with respect to the project(s) or HABC.

2. Any member of these classes of persons must disclose the member's interest or prospective interest to HABC and the United States Department of Housing and Urban Development (HUD).

3. Any bidder/offeror who submits a proposal or bid in response to an HABC solicitation must disclose in its proposal or bid, the interest, direct or indirect, of any member of these classes of persons in such bidder/offeror and shall also make the disclosures required in Parts II and III below. "Offeror" as used in Parts II and III below, refers to bidders in sealed bidding, and offerors/responders in competitive proposals and "offer" shall refer to bids and proposals.

4. For purposes of this section, the term, "immediate family member" means the spouse, mother, father, brother, sister, or child of a covered class member (whether related as a full blood relative, or as a "half" or "step" relative, e.g. a half-brother or stepchild).

5. No member of or delegate to the Congress of the United States of America or any representative of HABC shall be admitted to any share or part of any contract or to any benefits which may arise from it.

### **PART II. ORGANIZATIONAL CONFLICTS OF INTEREST NOTIFICATION**

1. It is HABC's policy to avoid situations which place an offeror in a position where its judgment may be biased if awarded the contract because of any past, present, or currently planned interest, financial or otherwise, that the offeror may have which relates to the work to be performed pursuant to the proposed contract or where the offeror receives an unfair competitive advantage in submitting a proposal or bid for the proposed contract, such as, for example, an offeror who submits a proposal or bid after acting as a consultant to HABC in preparing the specifications or

performing a study for the proposed contract. Such situations which may either impair the offeror's objectivity in performing the proposed contract work or result in an unfair competitive advantage to the offeror are considered organizational conflicts of interest.

2. Where an offeror is aware of, or has reason to be aware of an organizational conflict of interest, whether an actual or apparent conflict, the offeror shall provide a statement which describes in a concise manner all relevant facts concerning any past, present, or currently planned interest, financial, contractual, organizational, or otherwise, relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to:

- a. being able to render impartial, technically sound, and objective assistance or advice, or
- b. being given an unfair competitive advantage.

2.1. During the term of the contract resulting from this solicitation, the contractor and all principals and partners of any joint venture awarded a contract under this solicitation (collectively referred to herein as the "Contractor"), shall be prohibited from providing services for or on behalf of any person, firm or company, which is in a position that is adverse to the interests of HABC. A position adverse to the interests of HABC shall include, but not be limited to, a person, firm or company that has a claim for damages against HABC in any judicial or administrative tribunal. Further, the Contractor shall not engage any subcontractor for the performance of any services under the proposed contract if such subcontractor has, at any time within the twelve (12) consecutive month period preceding the commencement of its engagement with the Contractor under the proposed contract, provided any services for or on behalf of any person, firm or company, which is in a position that is adverse to the interests of HABC. The Contractor shall insert and enforce a similar provision in its contract documents with each subcontractor. From time to time, during the term of the proposed contract HABC may require (a) the Contractor to submit a certification and affidavit as to the Contractor's compliance with the terms of this subsection 2.1; and (b) the Contractor to submit to HABC a certification and affidavit from any or all subcontractors as to their compliance with such substantially similar provision as shall be enforced by the Contractor. The Contractor shall immediately terminate any subcontractor in violation of the terms of this subsection 2.1. Failure of the Contractor to comply with the requirements of this subsection 2.1., or to terminate immediately any subcontractor in violation of such provision, shall constitute a default under the proposed contract and grounds for termination of the contract for cause, without liability to HABC.

3. The Offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions of the organization and how that structure or system would avoid or mitigate such organizational conflict.

4. In the absence of any relevant interests referred to above, or any conflict of interest, financial, organizational, contractual or otherwise, offerors shall complete the certification in Part III below, titled Conflict of Interest Certification of Offeror.

5. No award shall be made until the disclosure or certification has been evaluated by the Contracting Officer. Failure to provide the disclosure or certification will be deemed to be a minor infraction and the offeror will be permitted to correct the omission within a time frame established by the Contracting Officer.

6. Refusal to provide the disclosure or certification and any additional information as required, or the willful nondisclosure or misrepresentation of any relevant information shall disqualify the offeror.

7. If the Contracting Officer determines that a potential conflict exists, the selected offeror shall not receive an award unless the conflict can be avoided or otherwise resolved as determined by the Contracting Officer.

8. In the event the Offeror is aware of an organizational conflict of interest and intentionally does not disclose the existence of such conflict to the Contracting Officer before the award of this contract, HABC may terminate the contract for default.

9. The term "Affiliated Entities" shall include any parent, subsidiary, partner and/or joint venturer of or with the Offeror and any person or entity that shares in the profits of the Offeror or in the proceeds or profits resulting from the proposed contract. The Offeror shall not contract with any Affiliated Entity without obtaining HABC's written approval of such contract. The Offeror shall disclose to HABC all contracts that it has with any Affiliated Entities to provide goods, materials, equipment, supplies or services, of any nature or kind, with respect to the proposed contract.

### **PART III. CONFLICT OF INTEREST CERTIFICATION OF OFFEROR**

1. The Offeror certifies that to the best of its knowledge and belief and except as otherwise disclosed, no member of the classes of persons listed in Part I above has an interest or prospective interest, direct or indirect, financial, contractual, organizational or otherwise, in the Offeror.

2. The Offeror certifies that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any actual or apparent organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the Offeror's organizational, financial, contractual or other interests may:

- (a) Result in an unfair competitive advantage to the Offeror; or
- (b) Impair the Offeror's objectivity in performing the contract work.

3. The Offeror agrees that if the contract is awarded to the Offeror, and after award it discovers an actual or apparent conflict of interest, financial, contractual, organizational or otherwise, with respect to this contract, it shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Offeror has taken or intends to take to eliminate or resolve the conflict. HABC may, however, terminate the contract for the convenience of HUD and/or HABC.

4. The Offeror agrees that if the contract is awarded to the Offeror, the terms of this conflict of interest clause and any necessary provisions to eliminate conflicts of interest shall be included in all subcontracts and consulting agreements resulting from the proposed contract.

5. In the absence of any interest in the Offeror held by any member of the classes of persons referred to above and in the absence of any actual or apparent conflict, I, hereby certify and affirm under penalties of perjury, that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of the proposed contract. The

undersigned official certifies that he/she is authorized to sign this proposal form for the firm.

\_\_\_\_\_  
Printed Name and Title  
Of Authorized Official of Responder

\_\_\_\_\_  
Signature of Authorized Official of Responder

\_\_\_\_\_  
Date

**[End Attachment 2]**

### ATTACHMENT 3

#### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS 2 CFR PART 180 AND 2 CFR 200.213**

##### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definitions and Coverage sections or rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the "List of Parties Excluded from Federal Procurement and Non-Procurement Programs."
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment,  
Suspension, Ineligibility and Voluntary  
Exclusion-Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective lower-tier participant must provide the information requested in section (3) below and shall attach an explanation to this proposal.

(3) The names listed below, represent all owners and principals (including project managers) of the prospective lower-tier participant and their titles or nature of interest in the firm.

<u>Name</u>	<u>Title or Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Use additional sheets if more space is needed)

\_\_\_\_\_  
PROSPECTIVE PARTICIPANT  
(Printed Name and Title of Official)

\_\_\_\_\_  
PROSPECTIVE PARTICIPANT  
(Signature of Official)

\_\_\_\_\_  
DATE

[End Attachment 3]

**ATTACHMENT 4: AUTHORIZATION OF RESPONDER FOR VERIFICATION OF REFERENCES**

The undersigned Responder has submitted a proposal to the Housing Authority of Baltimore City ("HABC") in response to RFP No. B-1908-20. The undersigned hereby authorizes and requests any and all persons, firms, corporations and/or government entities to furnish any information requested by HABC in verification of the references provided, for determination of the quality and timeliness of the services provided by Responder, and all other legal purposes. A copy of this document, after execution by the Responder, presented by HABC to any such person, firm, corporation and/or government entity shall be as valid as the original.

---

Printed Name and Address of Responder

---

Printed Name and Title of Authorized Representative  
or Official of Responder

---

Signature of Authorized Representative or Official of Responder

Date

**[End Attachment 4]**

## **ATTACHMENT 5 - SUBGRANTEE/CONTRACTOR/SUBCONTRACTOR CERTIFICATIONS AND ASSURANCES (HUD CERTIFICATIONS)**

The following certifications must be made by the Respondent and shall be a part of the proposed contract.

Respondent executing this certification hereby assures and certifies that:

1.    a.    It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which states, in part, that no person in the United States, on the ground of race, color or national origin, will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance; will comply with the regulations pursuant thereto (24 CFR part 1); and will immediately take any measures necessary to effectuate this agreement.
- b.    It will comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with implementing regulations at 24 CFR part 8, which prohibit discrimination based on handicap in Federally-assisted and conducted programs and activities.
- c.    It will comply with the Americans with Disabilities Act (Public Law 101-336) and its implementing regulations at 28 CFR part 36.
- d.    It will comply with the Age Discrimination Act of 1975 (42 U.S.C. 6101-07), as amended, and implementing regulations at 24 CFR part 146, which prohibit discrimination because of age in projects and activities receiving Federal financial assistance.
- e.    It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), and regulations pursuant thereto (24 CFR part 135), which require that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the unit of local government and contracts for work in connection with the project be awarded to businesses located in the same metropolitan area as the project.
- f.    It will comply with Executive Order 11246 of September 24, 1965 as amended, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60), and Executive Order 12138, and consistent with HUD's responsibilities under these orders, will make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.
2.    It will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701), and HUD's implementing regulations at 24 CFR part 24, subpart F by, among other things:
  - a.    publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's

workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. establishing an on-going drug-free awareness program to inform employees about:

(i) the dangers of drug abuse in the workplace;

(ii) the grantee's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by subparagraph (a);

d. notifying the employee in the statement required by subparagraph (a) that, as a condition of employment under the grant, the employee will:

(i) abide by the terms of the statement; and

(ii) notify the employer, in writing, of his or her conviction for a violation of a criminal drug statute occurring in the workplace not later than five calendar days after such conviction;

e. notifying HUD, in writing, within ten calendar days after receiving notice under subparagraph d.(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless HUD has designated a central point for the receipt of such notices. Notice shall include the identification number of each affected grant;

f. taking one of the following actions, within 30 calendar days after receiving notice under subparagraph d.(ii), with respect to any employee who is so convicted:

(i) taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(ii) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency;

g. making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs a, b, c, d, e and f;

h. providing the street address, city, county, state, and zip code for the site or sites where the performance of work in connection with the grant will take place. For some applicants who have functions carried out by employees in several department or offices, more than one location may need to be specified. It is further recognized that States and other applicants who become grantees may add or change sites as a result of changes to program activities during the course of grant-funded activities. Grantees, in such cases, are required to advise the HUD Field Office by submitting a revised "Place of Performance" form. The period covered by the certification extends until all funds under the specific grant have been expended.

3. It will comply with the provisions of 2 CFR part 200 which apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

4. It will comply with, and be subject to, to the extent applicable, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified at 2 CFR Part 200.

5. a. That, in addition to the conflict of interest requirements in 2 CFR part 200, no person who is in an employee, agent, consultant, officer, or elected or appointed official of the recipient of Comprehensive Grant Program funds and who exercises or has exercised any functions or responsibilities with respect to activities assisted under Comprehensive Grant Program funds, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

b. If any conflict of interest exists, an opinion of legal counsel indicating that such interest does not violate State or Local laws must be provided, together with a certification containing the following information, in order for HUD to decide whether an exception to the conflict of interest provisions should be approved: (i) disclosure of the nature of the conflict, (ii) an assurance that there has been public disclosure of the conflict, and (iii) a description of how the public disclosure was made.

c. In determining whether to grant a requested exception, HUD will consider the cumulative effect of the following factors, where applicable:

(i) whether the exception would provide a significant cost benefit or an essential degree of expertise to the Revitalization Plan that would otherwise not be available;

(ii) whether an opportunity was provided for open competitive bidding or negotiation;

(iii) whether the person affected is a member of a group or class intended to be the beneficiaries of the Revitalization Plan and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process, with respect to the specific activity in question;

(v) whether the interest or benefit was present before the affected person was in a position as described in subparagraph 5.a above;

(vi) whether undue hardship will result either to the grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) any other relevant considerations.

6. It and its principals (see 2 CFR 200):

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions (see 24 CFR 24.100) by any Federal department or agency;

b. have not been convicted of, or had a civil judgment rendered against them for, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the offenses enumerated in subparagraph b; and

d. have not, within a three-year period preceding the execution of this certification, had one or more public transactions (Federal, State or local) terminated for cause or default.

7. With respect to contracts of amounts in excess of \$10,000, it will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

8. It will comply with applicable mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

9. It certifies that the information contained in this certification is true and accurate, to the best of its knowledge, information and belief.

---

Signature of Authorized Certifying Representative or Official      Title

---

Name of Party Under Contract      Date

## WARNING

Section 1001 of the Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) applies to this certification. 18 U.S.C. 1001, among other things, provides that whoever knowingly and willfully makes or uses a document or writing knowing the same to contain any false, fictitious or fraudulent statement or entry, in any matter within jurisdiction of any department or agency of the United States, shall be fined no more than \$10,000 or imprisoned for not more than five years, or both.

## SUBGRANTEE'S OR SUBCONTRACTOR'S ANTI-LOBBYING CERTIFICATION

Each subgrantee or subcontractor for must sign this anti-lobbying certification indicating that no Federally appropriated funds have been or will be spent on lobbying activities in connection with the subgrant or subcontract agreement. Section 319 of Public Law 101-121 prohibits recipients of Federal contracts, grants, and loans for using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. A common rule governing the restrictions on lobbying was published as an interim rule on February 26, 1990 (55 FR 6736) and supplemented by a Notice published June 15, 1990 (55 FR 24540). The rule requires applicants for and recipients of assistance exceeding \$100,000 to certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. The rule also requires disclosures from recipients if non appropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. The law provides substantial monetary penalties for failure to file the required certification or disclosure.

If lobbying activities were conducted on behalf of the Comprehensive Grant Program funds or the Mixed Finance Grant Agreement, such activities must be disclosed on Standard Form-LLL, "Disclosure of Lobbying Activities". This form may be obtained from the local HUD State or Area Office.

Attached is the appropriate anti-lobbying certification.

## CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATION AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief that

- (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 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 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.

(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 any 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, that undersigned shall be complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub-contracts, sub-grants, and contracts) under grants, loan, and cooperative agreements and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title, if any)

**[End Attachment 5]**

**Attachment 6**

**HUD-5370 General Conditions for Construction Contracts**

# General Conditions for Construction Contracts - Public Housing Programs

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0157 (exp. 3/31/2020)

**Applicability.** This form is applicable to any construction/development contract greater than \$150,000.

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit.

The information requested does not lend itself to confidentiality.

HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number.

Clause		Page	Clause		Page
1	Definitions	2	<b>Administrative Requirements</b>		
2.	Contractor's Responsibility for Work	2	25.	Contract Period	9
3.	Architect's Duties, Responsibilities and Authority	2	26.	Order of Precedence	9
4.	Other Contracts	3	27.	Payments	9
	<b>Construction Requirements</b>		28.	Contract Modifications	10
5.	Preconstruction Conference and Notice to Proceed	3	29.	Changes	10
6.	Construction Progress Schedule	3	30.	Suspension of Work	11
7.	Site Investigation and Conditions Affecting the Work	3	31.	Disputes	11
8.	Differing Site Conditions	4	32.	Default	11
9.	Specifications and Drawings for Construction	4	33.	Liquidated	12
10.	As-Built Drawings	5	34.	Termination of Convenience	12
11.	Material and Workmanship	5	35.	Assignment of Contract	12
12.	Permits and Codes	5	36.	Insurance	12
13.	Health, Safety, and Accident Prevention	6	37.	Subcontracts	13
14.	Temporary Buildings and Transportation Materials	6	38.	Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms	13
15.	Availability and Use of Utility Services	6	39.	Equal Employment Opportunity	13
16.	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	6	40.	Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968	14
17.	Temporary Buildings and Transportation Materials	7	41.	Interest of Members of Congress	15
18.	Clean Air and Water	7	42.	Interest of Members, Officers, or Employees and Former Members, Officers, or Employees	15
19.	Energy Efficiency	7	43.	Limitations on Payments Made to Influence	15
20.	Inspection and Acceptance of Construction	7	44.	Royalties and Patents	15
21.	Use and Possession Prior to	8	45.	Examination and Retention of Contractor's Records	15
22.	Warranty of Title	8	46.	Labor Standards-Davis-Bacon and Related Acts	15
23.	Warranty of	8	47.	Non-Federal Prevailing Wage Rates	19
24.	Prohibition Against	9	48.	Procurement of Recovered	19

## 1. Definitions

- (a) "Architect" means the person or other entity engaged by the PHA to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a PHA uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.
- (b) "Contract" means the contract entered into between the PHA and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders (form HUD-5370), these General Conditions of the Contract for Construction (form HUD-5370), the applicable wage rate determinations from the U.S. Department of Labor, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.
- (c) "Contracting Officer" means the person delegated the authority by the PHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the PHA in all dealings with the Contractor.
- (d) "Contractor" means the person or other entity entering into the contract with the PHA to perform all of the work required under the contract.
- (e) "Drawings" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.
- (f) "HUD" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the PHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the PHA for payment to the Contractor. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.
- (g) "Project" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.
- (h) "PHA" means the Public Housing Agency organized under applicable state laws which is a party to this contract.
- (i) "Specifications" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.
- (j) "Work" means materials, workmanship, and manufacture and fabrication of components.

## 2. Contractor's Responsibility for Work

- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the PHA pursuant to the clause entitled Availability and Use of Utility Services herein.
- (b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least [ ] (12 percent unless otherwise indicated) of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the PHA.
- (c) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.
- (d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.
- (e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.
- (f) The Contractor shall confine all operations (including storage of materials) on PHA premises to areas authorized or approved by the Contracting Officer.
- (g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.
- (h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

## 3. Architect's Duties, Responsibilities, and Authority

- (a) The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.

- (b) The Architect shall serve as the Contracting Officer's technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the Changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) changes any of the other express terms or conditions of the contract.
- (c) The Architect's duties and responsibilities may include but shall not be limited to:
- (1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor's designated representative at the site;
  - (2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;
  - (3) Reviewing and making recommendations with respect to - (i) the Contractor's construction progress schedules; (ii) the Contractor's shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor's price breakdown and progress payment estimates; and
  - (4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

#### 4. Other Contracts

The PHA may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with PHA 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 by PHA employees

### Construction Requirements

#### 5. Pre-construction Conference and Notice to Proceed

- (a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the PHA, its Architect, and other interested parties convened by the PHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The PHA will provide the Contractor with the date, time, and place of the conference.
- (b) The contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

#### 6. Construction Progress Schedule

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.
- (b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled Inspection and Acceptance of Construction, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the PHA. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.
- (c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

#### 7. Site Investigation and Conditions Affecting the Work

- (a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is

reasonably ascertainable from an inspection of the site, including all exploratory work done by the PHA, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the PHA.

- (b) The PHA assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the PHA. Nor does the PHA assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

#### 8. Differing Site Conditions

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.
- (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor's risk, until the Contracting Officer has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the PHA within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.
- (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.
- (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

#### 9. Specifications and Drawings for Construction

- (a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be

promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

- (b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by", or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.
- (c) Where "as shown" "as indicated", "as detailed", or of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place" that is "furnished and installed".
- (d) "Shop drawings" means drawings, submitted to the PHA by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The PHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
- (e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the PHA's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.
- (f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.
- (g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be

required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

- (h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the PHA and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.
- (i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 10. As-Built Drawings

- (a) "As-built drawings," as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. "As-built drawings" shall be synonymous with "Record drawings."
- (b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent as-built drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.
- (c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all as-built drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 11. Material and Workmanship

- (a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.
- (b) Approval of equipment and materials.
- (1) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the

machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

- (2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's expense, with all shipping charges prepaid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor's name, and the identification of the construction project for which the material or product is intended to be used.
- (3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.
- (4) Approval of a sample shall not constitute a waiver of the PHA right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.
- (5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of retesting materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.
- (6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.
- (c) Requirements concerning lead-based paint. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

#### 12. Permits and Codes

- (a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any

waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled Changes herein to conform to the code or regulation.

- (b) The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work. Where the PHA can arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor, the contract amount shall be reduced accordingly.

### 13. Health, Safety, and Accident Prevention

- (a) In performing this contract, the Contractor shall:
  - (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
  - (2) Protect the lives, health, and safety of other persons;
  - (3) Prevent damage to property, materials, supplies, and equipment; and,
  - (4) Avoid work interruptions.
- (b) For these purposes, the Contractor shall:
  - (1) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and
  - (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.
- (c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.
- (d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.
- (e) The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the PHA, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

### 14. Temporary Heating

The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to the PHA in the condition and at the time required by the specifications.

### 15. Availability and Use of Utility Services

- (a) The PHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the PHA or, where the utility is produced by the PHA, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.
- (b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the PHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

### 16. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

- (a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.
- (b) The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.
- (c) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.
- (d) The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
- (e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.

- (f) New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.
- (g) No structural members shall be altered or in any way weakened without the written authorization of the Contracting Officer, unless such work is clearly specified in the plans or specifications.
- (h) If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refinishing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refinishing or reconstruction is specified in the plans or specifications.
- (i) The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work.
- (j) The Contractor shall indemnify and save harmless the PHA from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the PHA may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.
- (k) The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

#### 17. Temporary Buildings and Transportation of Materials

- (a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the PHA. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.
- (b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### 18. Clean Air and Water

The contractor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

#### 19. Energy Efficiency

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

#### 20. Inspection and Acceptance of Construction

- (a) Definitions. As used in this clause -
  - (1) "Acceptance" means the act of an authorized representative of the PHA by which the PHA approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.
  - (2) "Inspection" means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.
  - (3) "Testing" means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to PHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) PHA inspections and tests are for the sole benefit of the PHA and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the PHA after acceptance of the completed work under paragraph (j) below.
- (d) The presence or absence of the PHA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer's written authorization. All instructions and approvals with respect to the work shall be given to the Contractor by the Contracting Officer.
- (e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The PHA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The PHA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

- (f) The PHA may conduct routine inspections of the construction site on a daily basis.
- (g) The Contractor shall, without charge, replace or correct work found by the PHA not to conform to contract requirements, unless the PHA decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (h) If the Contractor does not promptly replace or correct rejected work, the PHA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.
- (i) If any work requiring inspection is covered up without approval of the PHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the PHA considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (j) The Contractor shall notify the Contracting Officer, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Architect determines that the state of preparedness is as represented, the PHA will promptly arrange for the inspection. Unless otherwise specified in the contract, the PHA shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the PHA's right under any warranty or guarantee.

## 21. Use and Possession Prior to Completion

- (a) The PHA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the PHA intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The PHA's possession or use shall not be deemed an acceptance of any work under the contract.
- (b) While the PHA has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the PHA's possession or use, notwithstanding the terms of the clause entitled Permits and Codes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas

occupied without proper remuneration therefore. If prior possession or use by the PHA delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

## 22. Warranty of Title

The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

## 23. Warranty of Construction

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of \_\_\_\_\_ (one year unless otherwise indicated) from the date of final acceptance of the work. If the PHA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the PHA takes possession.
- (b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—
  - (1) The Contractor's failure to conform to contract requirements; or
  - (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.
- (c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for (one year unless otherwise indicated) from the date of repair or replacement.
- (d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the PHA shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
  - (1) Obtain all warranties that would be given in normal commercial practice;
  - (2) Require all warranties to be executed in writing, for the benefit of the PHA; and,
  - (3) Enforce all warranties for the benefit of the PHA.
- (g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

- (h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the repair of any damage that results from any defect in PHA furnished material or design.
- (i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and (c) above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.
- (j) This warranty shall not limit the PHA's rights under the Inspection and Acceptance of Construction clause of this contract with respect to latent defects, gross mistakes or fraud.

#### 24. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

#### Administrative Requirements

#### 25. Contract Period

this contract within \_\_\_\_\_ calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the Contracting Officer.

#### 26. Order of Provisions

In the event of a conflict between these General Conditions and the Specifications, the General Conditions shall prevail. In the event of a conflict between the contract and any applicable state or local law or regulation, the state or local law or regulation shall prevail; provided that such state or local law or regulation does not conflict with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

#### 27. Payments

- (a) The PHA shall pay the Contractor the price as provided in this contract.
- (b) The PHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The PHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.
- (c) Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Contracting Officer, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a

basis for determining progress payments. The breakdown shall be approved by the Contracting Officer and must be acceptable to HUD. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract.

- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved

submitted not later than \_\_\_\_\_ days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.

- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made: I hereby certify, to the best of my knowledge and belief, that

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

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

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

Date: \_\_\_\_\_

- (f) Except as otherwise provided in State law, the PHA shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the contract; except, that if upon completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect, determines that the Contractor's performance and progress are satisfactory, the PHA may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor's performance and progress are unsatisfactory, the PHA shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.
- (g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments.

Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that (1) it has acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Contracting Officer; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Contracting Officer may require to assure the protection of the PHA's interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the PHA.

- (h) All material and work covered by progress payments made shall, at the time of payment become the sole property of the PHA, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the PHA to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the PHA in the course of their employment, the Contractor shall restore such damaged work without cost to the PHA and to seek redress for its damage only from those who directly caused it.
- (i) The PHA shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the PHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.
- (j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.
- (k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in nowise impair the obligations of any surety or sureties under any bonds furnished under this contract.

## 28. Contract Modifications

- (a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or

responsibilities of the parties (e.g., change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

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

## 29. Changes

- (a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) PHA-furnished facilities, equipment, materials, services, or site; or,
  - (4) Directing the acceleration in the performance of the work.
- (b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.
- (c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

- (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs when size of change warrants revision.
- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change. The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.
- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

### 30. Suspension of Work

- (a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the PHA.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have

been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.

- (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

### 31. Disputes

- (a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (b) Except for disputes arising under the clauses entitled Labor Standards - Davis Bacon and Related Acts, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (c) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (d) The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.
- (f) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

### 32. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to

proceed with the work (or separable part of the work) that has been delayed. In this event, the PHA may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if—
- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the PHA or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the PHA, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
  - (2) The Contractor, within days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the PHA.

### 33. Liquidated Damages

- (a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to the PHA as liquidated damages, the sum of \$\_\_\_\_\_ [Contracting Officer insert amount] for each day of delay. If different completion dates are specified in the contract for separate parts or stages of the work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that the Contractor's delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due the PHA. The Contractor remains liable for damages caused other than by delay.
- (b) If the PHA terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final

completion of the work together with any increased costs occasioned the PHA in completing the work.

- (c) If the PHA does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

### 34. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

### 35. 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 PHA under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by the Contracting Officer.

### 36. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:
- (1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.
  - (2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$\_\_\_\_\_ [Contracting Officer insert amount]

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

- (3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$ \_\_\_\_\_ [Contracting Officer insert amount] per occurrence.

- (b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

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

### 37. Subcontracts

- (a) Definitions. As used in this contract -

- (1) "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

- (2) "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Contractor or another subcontractor.

- (b) The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.
- (c) The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.
- (d) The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.
- (e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the PHA or between the subcontractor and HUD.

### 38. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

The Contractor shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and
- (e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

### 39. 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, national origin, or handicap.
- (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, national origin, or handicap. 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, national origin, or handicap.
  - (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, Section 503 of the Rehabilitation Act of 1973, 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.
  - (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.
- 40. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.**
- (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.
  - (g) 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).

#### 41. Interest of Members of Congress

No member or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

#### 42. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the PHA, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the PHA 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.

#### 43. Limitations on Payments made to Influence Certain Federal Financial Transactions

- (a) The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) The Contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

#### 44. Royalties and Patents

The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the PHA harmless from loss on account thereof; except that the PHA shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, the Contractor has reason to believe that any design, process or product specified is an infringement of a patent, the Contractor shall promptly notify the Contracting Officer. Failure to give such notice shall make the Contractor responsible for resultant loss.

#### 45. Examination and Retention of Contractor's Records

- (a) The PHA, 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 (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the PHA, 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.

#### 46. Labor Standards - Davis-Bacon and Related Acts

If the total amount of this contract exceeds \$2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

- (a) Minimum Wages.
  - (1) All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall

be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

(iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

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

(4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the

amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

(c) Payrolls and basic records.

(1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;
- (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (d) (1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under

the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- (e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.
- (f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.
- (i) Certification of eligibility.
  - (1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (3) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.
- (j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.
  - (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
  - (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.
  - (3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.
- (k) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

---

#### 47. Non-Federal Prevailing Wage Rates

- (a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:
  - (1) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

#### 48. 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.

## **Attachment 7**

### **HABC Contract Terms and Conditions**

#### **1. STATEMENT OF WORK:**

(a) The Consultant shall furnish all labor, materials, equipment, warranties, guarantees, and transportation necessary for timely supply and delivery to the Housing Authority of Baltimore City ("HABC") of the goods, services and products itemized in this Contract, and shall perform and complete all work required under the Contract as specified in, and in strict accordance with the Contract documents, applicable laws and regulations, and acceptable industry professional standards. Unless otherwise indicated by HABC, the Contract shall consist of: the following documents that comprise the Contract ("Contract Documents") (i) a purchase order or master contract document; (ii) the underlying Request for Proposals Number: B-1908-20, including and any and all attachments, exhibits, appendices, amendments and addenda thereto (hereinafter referred to collectively as the "RFP"); (iii) Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I, if not included in the RFP; and (iv) the Consultant's proposal submitted in response to the RFP, including accepted by HABC prior to contract award (hereinafter referred to as the "Proposal"). Provided, however, that the Contract shall not include: (i) any term or condition contained in the Proposal which may be contradictory to any term or condition of the purchase order/master contract or the RFP; (ii) any correspondence between HABC and the Consultant which may be contradictory to the purchase order/master contract or the RFP, or (iii) any term or condition in the Proposal deemed by HABC as unacceptable. All documents referenced in this Paragraph 1 are incorporated by reference as if fully set forth in the Contract and a made part of the Contract.

(b) In the event of any ambiguity or conflict between or among the Contract Documents, the resolution of such ambiguity or conflict shall be that which most benefits HABC, as determined by HABC in its sole discretion. Provided, however, that the Consultant shall be equitably compensated in accordance with applicable law and regulations for any increased costs in performing the work directly resulting from the resolution of such ambiguity if HABC's determination of such conflict or ambiguity is not a reasonable determination.

(c) The Consultant shall be responsible for the professional quality and technical accuracy of all services required and all work provided under this Contract. At all times during performance of this Contract and until the work is completed and accepted, the Consultant shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Consultant.

#### **2. CONSULTANT'S CERTIFICATION OF UNDERSTANDING OF WORK:**

(a) By submitting a proposal, the Consultant has represented, warranted and certified that it possesses sufficient expertise in the services requested, and the requisite corporate, technical and staff capabilities necessary to competently perform services hereunder. The Consultant assures that it will utilize such competence, knowledge, expertise, capabilities, skills and qualifications to render all necessary services. The Consultant shall adhere to such standards until final acceptance of work is made by HABC hereunder.

(b) The Consultant represents, warrants and certifies that the Consultant, its employees, consultants, partners, technical resources, and subcontractors, if any, who will perform any functions in connection with the Contract possess competent knowledge, skills, training, background, licenses, permits, education and experience in their respective duties to successfully render services and perform all requirements of the Contract.

(c) The Consultant represents, warrants and certifies that it understands that HABC is not capable of independently verifying all representations made by the Consultant as to its expertise, and knowledge of acceptable industry standards and further understands that HABC relies upon its expertise as represented.

(d) The Consultant agrees to perform work in a manner that will not cause damage to any property or equipment owned, used, leased or otherwise acquired by HABC. The Consultant shall be responsible for all damages to persons or property that occur as a result of the fault or negligence of the Consultant, its subcontractors, employees, invitees or agents, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Consultant shall hold and save the HABC, its officers and agents, free and harmless from liability of any nature occasioned by the Consultant's performance. The Consultant shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the Contract.

(e) The Consultant shall confine all operations (including storage of materials) on HABC premises to areas authorized or approved by the Contracting Officer.

(f) The Consultant's responsibility will terminate when all work has been completed, the final review or inspection made, and the work accepted by the Contracting Officer. The Consultant will then be released from further obligation except as required by the guaranty, if any, except that the Consultant remains liable for any defects or hazardous conditions caused or created by the Consultant including those that do not immediately manifest upon completion of contract work.

(g) Nothing stated in this Section 2 or Section 1 above shall serve to increase the maximum cost for the Contract.

3. TERM OF CONTRACT: Unless otherwise stated in the purchase order/master contract document, the Contract shall be for a period of one (1) year subject to any earlier termination by HABC for cause or convenience as set forth in Section 18 below, and in Section 3 of "Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I". The Consultant grants HABC a unilateral option to renew the Contract for four (4) additional one (1) year periods or any shorter term indicated by HABC on the purchase order/master contract document, upon the same terms, conditions and price. HABC may exercise its option within (90) days after the expiration of the initial contract term. The work commencement date shall be as indicated in the Notice-To-Proceed.

4. CONTRACT PRICE AND COMPENSATION:

(a) MAXIMUM CONTRACT PRICE: As consideration for the services to be provided by the Consultant hereunder, HABC shall pay the Consultant the Contract price

specified in the purchase order/master contract document, which shall be the maximum amount payable for all services provided by the Consultant hereunder. HABC shall not be liable to the Consultant for any increased costs incurred by the Consultant in completing the services required under the Contract. The Consultant shall pass through to HABC any and all discounts, markdowns, price-cuts, rebates, concessions, and fee/tax waivers received by the Consultant in connection with the Contract during the Contract term and any renewal(s) thereof. The Consultant agrees to amend the Contract price or fees charged by the Contract to reflect the reduction resulting from such discounts, markdowns, price-cuts, rebates, concessions, and fee/tax waivers.

(b) MONTHLY STATEMENT/INVOICE: As a condition precedent to any payment to the Consultant hereunder, the Consultant shall submit to HABC a monthly statement of account or an invoice in the form approved by HABC. The invoice must clearly identify the name and address of the Consultant; the invoice date; the contract number; Purchase Order number; an itemization of all charges included in the total invoice amount; a detailed description of the designated services performed and products supplied; by whom performed and dates performed, and milestones reached, if any. The Consultant hereby agrees that HUD or any funding source for this project may require its approval of such statement, prior to any payment thereunder. The Consultant agrees to include its Federal Tax Identification Number and Purchase Order number in all invoices submitted to HABC. HABC may withhold payment for failure to comply with this provision. Submission will be managed through the vendor portal. Registration to the Vendor Portal is required.

The Consultant shall be reimbursed for such reasonable out-of-pocket expenses properly incurred, including but not limited to, travel costs, long distance telephone calls, and similar costs relating to the performance of the Contract. Allowable expenses are subject to review and approval by the Housing Authority of Baltimore City and shall be determined allowable in accordance with HUD Handbook 2210.18 and 2 CFR Part 200.

HABC reserves the right to disallow charges for hours and/or services and/or any item of cost which it deems to be unreasonable and/or unnecessary. Any dispute between the parties over such disallowed charges and/or items of cost shall be resolved in accordance with the dispute provisions contained in the contract.

(c) METHOD OF PAYMENT: Electronic payments by HABC shall be made to the Consultant within thirty (30) days after receipt of each approved invoice from the Consultant. No interest shall accrue on any unpaid balance due.

(d) FINAL PAYMENT: HABC shall make the final payment due the Consultant under this Contract after: (i) completion and acceptance of all work; and (ii) presentation of release of all claims against HABC arising by virtue of this Contract, other than claims, in stated amounts, that the Consultant has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Consultant's claim to amounts payable under this Contract has been assigned. Consultant of the final payment made under. Acceptance of final payment with or without a signed release shall operate as and be a

release of HABC by the Consultant from all claims and liabilities for compensation to the Consultant in connection with this Contract.

(e) DISALLOWANCE OF COSTS: HABC reserves the right to disallow Consultant charges for hours and/or services and/or any item of cost which it deems to be unreasonable and/or unnecessary. Any dispute between the parties over such disallowed charges and/or items of cost shall be resolved in accordance with the dispute provisions set forth in the contract general terms and conditions set forth in Section 7, titled Disputes, of "Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I".

5. EXPENSES: HABC shall not be responsible for any costs or expenses incurred by the Consultant not expressly provided for in the Contract, including travel and out-of-pocket expenses.

6. ACCOUNTING: The Consultant shall maintain a separate record of the Consultant's expenses and payments pertaining to the Contract on a generally recognized accounting basis. HABC, the Comptroller General of the United States, HUD or any funding source for this project or their authorized representatives, shall have full and free access to such records, including the right to audit, and to make copies and transcripts from such records.

7. EMPLOYEES:

(a) All personnel, staff, employees, consultants and subcontractors of the Consultant performing under the Contract shall be employees and/or subcontractors of the Consultant and shall neither be employees, subcontractors nor agents of HABC. The Consultant's employees shall be hired, paid, generally supervised, and discharged by the Consultant. The Consultant shall be responsible and liable for all Federal and State payroll and Social Security taxes, insurance premiums, and any and all payments, disbursements, or reimbursements to its employees, subcontractors or agents. The Consultant shall indemnify and hold harmless, HABC in every respect against same.

(b) The Consultant warrants that any and all employees, subcontractors, partners and consultants of the Consultant assigned to perform work under the Contract shall be qualified to perform such services and shall possess all requisite qualifications, skills, education, training, experience, licenses and certifications to perform the functions and services required by HABC hereunder.

(c) Any and all Consultant's employees, subcontractors, consultants, partners or agents identified in any part of the Contract to perform services in connection with the Contract are considered to be essential to the Contract work effort. The Consultant shall not reassign, withdraw, or substitute any individual or firm designated to perform services in connection with the Contract without the prior written consent of HABC. Any such reassignment, withdrawal or substitution without prior written consent of HABC, or failure of the Consultant to assign any such individual or party as designated in the Contract shall be a material breach of the Contract, which shall constitute grounds for withholding of payment and/or immediate termination of the Contract by HABC with or without notice.

(d) If this Contract requires the Consultant to provide any service to youth and children, it shall be the sole duty and responsibility of the Consultant to ensure that only persons

eligible to work with children and youth under applicable Federal, State and local laws and regulations shall be hired or otherwise retained to perform such services. The Consultant shall take all necessary steps to hire only eligible persons including checking an appropriate number of references and conducting background investigations as may be permitted or required by law, prior to hiring such staff. HABC shall in no way be responsible for improper or negligent hiring of staff expected to work with youth and children or the acts or omissions of such staff, irrespective of whether the Consultant gave notice to HABC prior to or after such hiring and the Consultant shall indemnify and hold HABC harmless in every respect against same.

8. SUPERVISION: For performance of services under the Contract the Consultant and its employees, subcontractors and agents shall report to and be under the general direction and guidance of the HABC Office of the Comptroller, Procurement Division.

9. STANDARDS OF CONDUCT:

(a) The Consultant shall be responsible for imposing exemplary standards for the conduct, competency, professionalism, appearance, honesty, courtesy, and integrity of its employees, subcontractors and agents performing on the Contract, and shall take such disciplinary action necessary to maintain those standards for the duration of the Contract. The Consultant shall ensure that its employees, consultants, agents and subcontractors performing on the Contract shall comply with all applicable laws and industry standards governing the Contract, and that such persons shall not engage in any activity or enterprise which is in conflict with HABC's interests or the public interest.

(b) If the Consultant has any contact or dealings with HABC residents or other residents of the community during the performance of this Contract, the Consultant shall at all times conduct itself and cause its employees, subcontractors, and agents to conduct themselves in such a manner as not to disturb such residents' use and quiet enjoyment of their residences or contract activities. In any dealing or contact with HABC residents or other residents of the community during the performance of this Contract, the Consultant, its employees, subcontractors and agents shall not: (i) engage in conduct that is harassing, abusive, verbally or physically threatening, or discourteous to such residents; (ii) engage in conduct towards, with or against any resident that is criminal or generally considered by the public as immoral, improper or inappropriate; and (iii) use their position or this Contract to gain any benefit from or advantage against any resident.

(c) Violation of any part of this Section 9 shall be grounds for immediate termination of the Contract by HABC without liability to the Consultant.

10. PERFORMANCE EVALUATION MEETINGS: The Consultant understands that HABC expects, at a minimum, to meet any and all stated objectives, goals and requirements of the Contract, therefore, the Consultant agrees to perform the services in a manner that promotes the achievement of said objectives, goals and requirements, including an analysis effort by contractor which may or may not lead to specific vendor alternatives. HABC has the sole discretion to accept, select or reject any alternatives offered by the Consultant. To that end, the Consultant shall promptly attend and participate in regular consultation meetings as determined by HABC. The assigned representatives of the Consultant for the Contract and one or more alternates shall be designated in writing to HABC prior to the Contract start with the addresses and telephone numbers where such representative(s) can be reached. The assigned

representatives of the Consultant shall be readily available as needed to meet with representatives of HABC in connection with matters related to the performance of the Contract. A mutual effort will be made to resolve any problems identified at these meetings. The performance evaluation meetings are required for the administration of the Contract, therefore, there shall be no additional fees paid to the Consultant, its subcontractors, employee or agents for attending such meetings. The Consultant understands and agrees that failure to regularly and promptly attend performance evaluation meetings shall be a material breach of contract and grounds for withholding payment or termination of the Contract by HABC.

11. REMOVAL FROM ASSIGNMENT: Neither the Consultant, nor its employees, subcontractors or agents may engage in conduct that is unethical, indecent, immoral, criminal and/or generally contrary to the public's interest. Such behavior shall be grounds for immediate termination of the Contract by HABC without liability to the Consultant. In lieu of termination, HABC may, at its sole discretion, request the Consultant to remove immediately from this assignment any employee, subcontractor or agent rendering services hereunder who is found unfit to perform duties due specifically to neglect of duty, unsatisfactory job performance, ethical violations, disorderly conduct, use of abusive or offensive language, quarreling, fighting, or intimidation by words or actions, theft, vandalism, immoral conduct or any other criminal action; and/or selling, consuming, possessing, or being under the influence of intoxicants, including alcohol, or illegal substances while on assignment to HABC. In such event, the Consultant shall, upon request by HABC, promptly provide, qualified substitute personnel at no additional cost to HABC to complete the Contract.

12. DELAYS AND EXTENSIONS OF TIME: The Consultant shall agree to perform the Contract continuously, faithfully and diligently. No charges or claims for damages shall be made by the Consultant against HABC for any delays or hindrances, regardless of cause, in the performance of services under the Contract, except that the Consultant may be reimbursed within legally allowable limits for any reasonable costs incurred as a direct result of a delay caused solely by the negligence of HABC, if any. Time extensions may be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including but not restricted to, acts of God, acts of the public enemy, acts of the Federal or State government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or other delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Consultant.

13. SUSPENSION OF WORK: HABC unilaterally may order the Consultant in writing to suspend, delay, or interrupt all or any part of its performance of services under the Contract for such period of time as HABC may determine to be appropriate for the convenience of HABC or the grantor of funds for this project without any liability by HABC, HUD or any grantor of funds for this project to the Consultant except that the Consultant shall be reasonably compensated within legally allowable limits for time expended and proportion of the analysis and conclusions completed for all assignments at the time of such suspension, and for reasonable, authorized and allowable costs incurred at the time of such suspension.

14. WARRANTY: Any equipment provided under this Contract shall have a warranty of one (1) year.

15. SUBCONTRACTING, "MBE", "WBE" AND "SECTION 3" COMPLIANCE:

(a) The Consultant shall not subcontract any portion of the services required under the Contract without obtaining prior written approval from HABC.

(b) If the Consultant has identified any subcontractor prior to the execution of this Contract, including but not limited to minority business enterprises ("MBEs") and women-owned business enterprises ("WBEs"), the Consultant shall not remove or reassign such identified subcontractors without prior written authorization of HABC. Violation of this provision is a material breach of the Contract which shall be grounds for terminating the Contract by HABC. Any HABC approved subcontract or shall be subject to any terms and conditions that HABC deems necessary to protect the interest of HABC and/or the grantor of funds for this project.

(c) The Consultant shall comply with its MBE/WBE Utilization Plan and its plan for providing subcontracting opportunities to "Section 3 Businesses" in accordance with Section of the Housing and Urban Development Act of 1968. It shall be a material breach of the Contract for the Consultant to remove any MBE WBE or Section 3 business identified to be utilized in the Contract prior to execution of the Contract, without prior written approval of HABC, or to fail to utilize MBEs, WBEs and Section 3 businesses in accordance with the percentages set forth in the Consultant's MBE/WBE Utilization Plan.

(d) The Consultant shall be as fully responsible for the acts or omissions of any subcontractors, or assignees, and of persons either directly or indirectly employed by them, as for the acts or omissions of persons directly employed by the Consultant. HABC shall not be responsible for the fulfillment of the Consultant's obligation to subcontractors or assignees in the event of any subcontract or assignment of the Contract. The Consultant shall ensure that all subcontractors performing on this Contract are paid timely.

16. CONSULTANTS: The Consultant shall not use any funds provided pursuant to the Contract to hire consultants or experts unless HABC gives prior approval of any such arrangement and the proposed work plan of the consultants or experts involved.

17. LIQUIDATED DAMAGES: [*Applicable only if amount is provided*] If the Consultant fails to complete the work within the time specified in the Contract, or any extension granted by HABC, the Consultant shall pay to HABC as liquidated damages, the sum of \$\_\_\_\_\_ for each day of delay. To the extent that the Consultant's delay or nonperformance is excused under another clause in this Contract, liquidated damages shall not be due HABC. The Consultant remains liable for damages caused other than by delay.

18. TERMINATION FOR CONVENIENCE: The performance of work under the Contract may be terminated by HABC in accordance with this clause in whole, or from time to time in part, whenever HABC shall determine that such termination is in the best interest of HABC, HUD or any funding source for this project. HABC shall pay the Consultant all reasonable costs directly relating to the Contract that the Consultant may have reasonably incurred and is entitled to under applicable laws and regulations up to the date of termination, and all reasonable costs associated with the termination of the Contract; however, the Consultant shall not be reimbursed for any anticipatory profits which have not been earned up to the date of termination. Any such termination shall be effected by delivery to the Consultant of a Notice of Termination specifying the extent to which the performance of the work under the Contract is terminated and the date upon which such termination becomes effective. Upon any termination of the Contract for

convenience or for cause, the entire contract file(s) maintained by the Consultant in connection with the Contract, including but not limited to all finished documents, projects, services, supplies, reports, audio visual recordings, shall become the property of HABC.

19. INSURANCE:

(a) The Consultant shall maintain for the entire duration of the Contract and until formally terminated by HABC, the required insurance coverage as set forth in Section (b) below. All insurance shall be procured from a company licensed to do business in the State of Maryland and placed with a carrier possessing an A.M. Best's Rating of B+VI or better. Deductible levels shall not exceed \$1,000 per occurrence on any policy. HABC must be named as an additional insured on all policies and the policy must provide that coverage cannot be canceled without notice to HABC at least thirty (30) days before the effective date of such cancellation. HABC may, at its sole discretion, raise, waive or reduce in limits, any insurance coverage required under the Contract.

(b) Coverage Requirements.

(i) Worker's Compensation Insurance - The Consultant including subcontractors shall obtain and maintain during the term of the Contract, Worker's Compensation Insurance including Employers Liability and shall apply and be in accordance with all Maryland Statutory requirements.

(ii) General Liability Insurance - The Consultant including subcontractors shall obtain and maintain during the term of the Contract, coverage for "bodily injury" (including death, public liability & personal injury) and "property damage" with a Combined Single Limit in an amount not less than \$1,000,000 per occurrence, and \$1,000,000 in the aggregate for the year

(iii) Automobile Liability Insurance - The Consultant including subcontractors shall obtain and maintain during the term of the Contract, coverage on all motor vehicles owned and non- owned, hired, leased or otherwise used in connection with this Contract. This insurance shall provide coverage for "bodily injury" (including death) and "property damage" with a Combined Single Limit in an amount not less than \$1,000,000 per occurrence and shall be in accordance with all Maryland Statutory requirements.

(iv) Professional Liability (Errors and Omissions) Insurance - The Consultant including subcontractors shall obtain and maintain Professional Liability/Malpractice Insurance during the term of this Contract for protection against claims for damages which may arise from operations or activities performed under the Contract, whether such operations or activities be performed by the Consultant or by any employees, agents or representatives of the Consultant (including subcontractors). Limits for this coverage shall not be less than \$1,000,000 per occurrence and shall be in accordance with all Maryland Statutory requirements.

(v) Commercial Crime Insurance (including coverage for employee dishonesty, computer fraud, theft, disappearance and destruction, and forgery and alteration) with limits of \$1,000,000 per occurrence.

(c) Proof of Insurance:

(i) Contract Start: The Consultant including subcontractors shall furnish to HABC Procurement Department prior to start of the Contract, a certified copy of the policy or policies covering all work/services as required in the Contract agreement evidencing that the insurance required is maintained and in force for the entire duration of the Contract agreement. The Consultant including subcontractors must also notify HABC within thirty (30) days prior to any termination of the required insurance. Any lapse in insurance coverage is cause for the immediate termination of this Contract.

(ii) During Contract Term: From time to time during the Contract term HABC may require, and the Consultant agrees to provide HABC with a certified copy of the policy or policies covering all work as required in the Contract, as evidence that the insurance required is maintained and in force for the entire duration of the Contract. The Consultant must also notify HABC immediately should any of the required insurance be terminated. Any insurance lapse is cause for the immediate termination of this Contract.

(d) No Insurance Limit on Indemnification Requirements: The Consultant shall also agree to save and hold HABC, its officers, agents and employees, harmless from any and all claims against HABC's officers, agents and employees which arise out of any action or omission of the Consultant or any of the officers, employees or agents of the Consultant, relating to the operations or activities required under this Contract. The agreement to save and hold HABC, its officers, agents and employees harmless shall not be limited by or to the level of liability insurance required under the provisions of this Contract, or by any provision, document or instrument which may be contained in, incorporated in, or attached, or otherwise made a part of this Contract or underlying solicitation.

(e) City and State Coverage Allowance. If this agreement is with the Mayor and City Council of Baltimore (City) and/or the State of Maryland (State), HABC will accept the City's/State's Self-Insurance program(s) as applied to Workers Compensation, Commercial General Liability, Automobile Liability, Professional Liability and Fire & Extended Coverage. However, it is agreed that the City's/State's coverage limits shall reflect and provide total compensation for any and all losses suffered as a result of the City's/State's performance of the Contract.

20. INDEMNIFICATION:

(a) The Consultant shall, to the fullest extent allowable under applicable laws and regulations, indemnify, save defend, and hold harmless HABC, its divisions, departments, officials, employees and agents from and against liability for any suits, actions, judgments, injuries, damages, expenses, losses, penalties, fines or claims of any character, including attorney's fees, attributable to, arising from, or caused by the conduct, acts or omissions of the Consultant, its employees, agents, subcontractors or assignees, in connection with the Contract and services under this RFP.

(b) HABC has no obligation or duty to defend, and shall not defend, provide legal counsel to, or pay for legal services procured by the Consultant, its subcontractors, consultants, employees, and agents in the event that a suit, claim or action of any kind is brought against the

Consultant, its subcontractors, assignees, employees and agents as a result of, or relating to their conduct, acts or omissions in connection with the Contract or services under this RFP.

(c) HABC has no obligation or duty for the payment of any judgments, liens, settlements, damages, expenses, losses or claims, including litigation and attorney's fees by or against the Consultant, its subcontractors, assignees, employees, consultants, and agents as a result of, or relating to their actions or conduct in connection with the Contract.

(d) The Consultant shall immediately notify HABC of any claim or suit made or filed against the Consultant, its subcontractors, assignees, employees, consultants and agents regarding any matter related to the Contract, and shall indemnify, cooperate, assist, and consult with HABC in the defense or investigation of any claim, suit, charge or action made or filed against HABC in connection with the Contract.

21. NON-DISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS: In addition to the requirements set forth in Section 16, titled Equal Employment Opportunity, of "Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I", the Consultant shall comply with, and shall also ensure that subcontractors performing on the Contract, if any are approved by HABC, shall comply with all State and local equal opportunity requirements and the following Federal equal opportunity requirements:

(a) Pursuant to Title VI, of the Civil Rights Act of 1964: Discrimination on the grounds of race, color, or national origin shall be prohibited. No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Pursuant to Title II, Section 109 of the Housing and Community Development Act of 1974, as amended: No person shall, on the grounds of race, color, national origin or sex be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.

(c) Pursuant to the Fair Housing Act of 1988, which amends Title VIII of the Civil Rights Act of 1968: Discrimination on the basis of race, color, sex or national origin in the sale, rental and financing of dwellings shall be prohibited. The Fair Housing Act of 1988 also covers persons with disabilities and families with children.

(d) Pursuant to the Age Discrimination Act of 1975 as amended: Discrimination on the basis of age in programs or activities receiving Federal financial assistance shall be prohibited.

(e) Pursuant to Section 504 of the Rehabilitation Act of 1973, as amended: Discrimination on the basis of handicap in all programs and activities receiving Federal financial assistance shall be prohibited.

(f) Pursuant to the Americans with Disabilities Act of 1990: Discrimination against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee

compensation, job training and other terms, conditions, and privileges of employment shall be prohibited.

(g) Pursuant to Executive Order 11246: Executive Order 11246 prohibits discrimination against any employee or applicant for employment on the basis of race, color, religion, sex or national origin. The Consultant shall take affirmative action to ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex, or national origin. Such action will include, but not be limited to, employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates or pay, or other forms of compensation and selection for training, including apprenticeship programs.

(h) Pursuant to Executive Order 11625: The Consultant agrees that in connection with the performance of services under the Contract, the Consultant shall comply with any applicable HABC's policies concerning Minority Business Enterprises (MBE), Women-owned Businesses (WBE) and/or Small Disadvantaged Businesses, as such policies may be adopted, amended and/ or implemented by HABC.

(i) Pursuant to Executive Order 12138: A national women's business enterprise policy is created and arrangements for developing, coordinating and implementing a national program for women's business enterprise are prescribed.

(j) Pursuant to Executive Order 11063: Equal opportunity in housing and related facilities provided by Federal financial assistance is required.

22. ORDER OF PRECEDENCE: In the event of a conflict between the Contract and any applicable Federal law or regulation, the Federal local law or regulation shall prevail. In the event of a conflict between the Contract and any applicable State or local law or regulation, the State or local law or regulation shall prevail provided that such is not in conflict with an applicable Federal local law or regulation.

23. PURCHASE AND TREATMENT OF ASSETS: If the Contract prescribes that the Consultant shall utilize HABC property for the performance of the Contract there shall be an appendix to the Contract listing all HABC property expected to be used. HABC property is defined as property acquired by HABC and furnished to the Consultant for the performance of the Contract, or property to be acquired directly by the Consultant with funds paid under the Contract, for the performance of the Contract.

(a) Title to all property furnished to the Consultant by HABC shall remain with HABC. Title to all property acquired by the Consultant shall immediately vest in HABC upon purchase of such property.

(b) The property shall be used solely for the performance of the Contract unless otherwise directed by HABC. The Consultant is responsible and accountable for property used for the Contract, and is required to keep separate records of, and furnish reports to HABC concerning all property used for this Contract.

(c) The Consultant must submit written notification to the Contracting Officer of any purchase of property within twenty-four (24) hours of such purchase. This notification must include a complete description of each item purchased, date acquired, vendor of the property,

cost, manufacturer's serial number or other identification number, location of the equipment, and proposed disposition of equipment at the completion of the Contract. All property acquired by the Consultant must be clearly identified and labeled as the property of HABC. The Consultant must contact HABC to obtain such labels. The Consultant must submit a monthly report to the Contracting Officer, accounting for the location and condition of the property. This report must account for all property listed on the initial and subsequent notification forms. The Consultant must make the property available for review or inspection by the Contracting Officer or his/her designee(s) without prior notice to the Consultant, irrespective of whether such property is in the actual possession of the Consultant. The Consultant shall not dispose of such property without prior written approval of HABC.

(d) The Consultant is liable for any loss of or damage to the property including any such property furnished by the Consultant to its subcontractors. The Consultant shall maintain adequate insurance coverage on the property and shall safely maintain, use and protect the property. If the Consultant is indemnified, reimbursed, or otherwise compensated for any loss or destruction of, or damage to the property, written notification of such action must be sent to the Contracting Officer. At HABC's direction, the proceeds shall be used to repair, renovate or replace the property involved, or shall be credited or reimbursed to HABC against the cost of the work covered by the Contract.

(e) At the conclusion of the term of the Contract and prior to completion of final payment, the Consultant shall deliver to HABC an updated listing of property furnished to, or acquired by the Consultant, showing as to each property item, the description, location, and condition of the property. Upon termination of the Contract, HABC may require the Consultant, and the Consultant agrees to either deliver to HABC, any and all property furnished to, or acquired by the Consultant for the performance of the Contract or otherwise dispose of such property as directed by HABC.

24. RECORDS AND REPORTS: The Consultant shall establish and maintain a comprehensive system of records, books, and accounts related to the performance of the Contract in a manner conforming to the directives of the funding source for this project, and otherwise satisfactory to HABC.

25. ADVERTISING LIMITATION: The Consultant agrees not to use the award of the Contract as a part of any commercial advertising without the prior written permission of HABC.

26. COMPLIANCE WITH APPLICABLE LAWS: The Consultant warrants that it shall comply and require its employees, subcontractors agents to comply with all Federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under the Contract including all workplace and occupational safety laws. The Consultant hereby represents that it is a legal entity qualified to do business in the State of Maryland and that it will take such action as, from time to time, may be necessary to remain so qualified. The Consultant further represents and warrants that it is not in arrears with respect to the payment of moneys due and owing the State of Maryland, or any subdivision, department or unit thereof, including, but not limited to, the maintenance of required worker's compensation and occupational liability insurance, and the payment of taxes and employee benefits, and that it shall not become in arrears during the term of the Contract.

**26.1. Prohibition on Disclosure of HABC Materials and Information.**

(a) The term "Material" or Materials shall include all information, books, documents, electronic or computer data, audio or video recordings, photographs, work sheets, drafts, work product, reports, records, all paper documents of any kind, whether written, typed, printed, punched, filmed or marked in any way, including, but not limited to, letters, telegrams, communications, memoranda, reports, studies, calendar or diary entries, minutes, pamphlets, notes, charts, tabulations, records of meetings, conferences, and telephone or other conversations, recording tapes or wires, films, photographs, movies, videotapes, any graphic matter, however produced or reproduced and mechanical or sound recordings or transcripts thereof, and conclusions resulting from or relating to the work performed under the contract. The Consultant agrees that any and all Materials, including any duplications thereof, (a) obtained by the Consultant, its employees, agents or third parties in connection with, or (b) generated pursuant to, or (c) resulting from, work or services performed under the Contract, shall be considered confidential and proprietary information.

(b) Personally Identifiable Information ("PII") is defined as information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. Sensitive Personally Identifiable Information ("Sensitive PII") is defined as PII that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers. Collectively, PII and the term "Sensitive PII shall be referred to as "Protected Information". The term Materials shall include the Protected Information.

(c) Consultant acknowledges and agrees that upon issuance of the Notice to Proceed, all Materials including Protected Information, as defined above, shall be and shall remain the property of, and for the confidential use and information of HABC. Further, the Consultant agrees that it shall not use or cause to be used at any time any Materials or Protected Information for either its own purposes or for the benefit of any person, firm, corporation, or other entity, other than HABC and its authorized representatives, unless prior written approval for such use shall have been granted by the Executive Director of HABC. The Consultant further agrees to refrain from divulging or permitting its employees, agents or other third parties to divulge to others, or from using for its benefit or the benefit of any person, firm, corporation or other entity, other than HABC and its authorized representatives, any of the Materials or Protected Information. The Consultant shall refrain, and shall cause its employees, agents, or other third parties to refrain, from disclosing or releasing any Materials including any Protected Information obtained from HABC, its employees, or agents to third parties without the prior written permission of the Executive Director of HABC or her designee.

(a) Consultant shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action that could result in substantial harm to HABC or any HABC resident or participant whose information or data is in the Consultant's custody or control. Consultant shall at all times maintain commercially reasonable network security that, at a minimum, includes: network firewall provisioning, intrusion detection/prevention, and periodic third party penetration testing. Consultant agrees to protect and maintain the security of data with protection security measures that include maintaining

secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority (e.g. Microsoft notifications, etc.).

(b) Consultant shall maintain the Materials in a secure location and shall treat the Materials as confidential and privileged. The Consultant further agrees that the Materials shall only be used in connection with the performance of the Consultant's services under this Contract and that the Materials shall not be disclosed to any third parties without HABC's prior written consent, except: (a) as may be required by law; or (b) as may be required by HUD. The Consultant shall insert and enforce this provision or one substantially similar to it, in any and all agreements between the Consultant and any subcontractors. Failure of the Consultant, its employees, agents, or subcontractors to comply with the requirements pursuant to this provision shall constitute a material breach of the Contract, which may result thereby in the withholding of payments, termination of the Contract, or any remedy or any combination of remedies to which HABC may be entitled under the Contract or by law.

27. CONTRACT ADMINISTRATION: The work to be accomplished under the Contract shall be performed under the direction of the Contracting Officer who shall be the Executive Director of HABC or his designee. All matters relating to the administration and performance of the Contract shall be referred to the Contracting Officer for determination. The Consultant shall submit all information required under the Contract to the Contracting Officer at 417 East Fayette Street, Room 1346, Baltimore, Maryland 21202, unless otherwise designated in writing by HABC. The Contracting Officer shall have full responsibility for monitoring all contract activities and the Consultant's progress hereunder.

28. CONTINGENT FEE PROHIBITION: The Consultant, warrants that it has not employed, or retained for a fee or other consideration, any person, partnership, corporation, or other entity, other than a *bona fide* employee or agent working for the Consultant, to solicit or secure the Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a *bona fide* employee or agent, any fee or any other consideration contingent on the making of the Contract. For breach or violation of this warranty, HABC shall have the right to annul the Contract without liability on the part of HABC or, in its discretion, to deduct from the consideration otherwise payable to the Consultant the full amount of such fee or other consideration.

29. COST CERTIFICATION: By submitting fees, costs, prices, expenses or such other billing information, the Consultant shall certify that, to the best of its knowledge, the information submitted shall be accurate, complete and current as of the date of submission and that such fee is not contingent upon, or a result of preconceived or prearranged value considerations.

30. LIABILITY FOR LOSS OF DATA: In the event of loss of any data or records necessary for the performance of the Contract where such loss is due to the error or negligence of the Consultant, the Consultant shall be responsible for recreating such lost data or records irrespective of the cost, and such cost shall be borne by the Consultant.

31. PATENTS AND ROYALTIES: The Consultant shall, to the extent allowable by applicable laws and regulations, indemnify and save harmless HABC and its employees from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, patented, or non-patented invention, process or article manufactured or used in the

performance of the Contract, including its use by HABC if supplied by the Consultant. If the Consultant uses any design, device or materials covered by letters, patents or copyrights, it is mutually agreed and understood that HABC shall not be responsible for payment of any royalties or costs arising from the use of such design, device, or materials involved in the work.

32. PERMITS AND LICENSES: The Consultant shall obtain, at its expense, all permits and licenses that are required for performing the work by all laws, ordinances, rules and regulations or order of any officer and/or body lawfully empowered to make or issue the same and having jurisdiction. The Consultant shall give all notices necessary in connection with such permits and licenses, and shall pay all fees and costs relating to the maintenance of such permits and licenses for the duration of the Contract.

33. AVAILABILITY OF FUNDS: In the event funds necessary to finance the Contract are not available, HABC may cancel the award and the Contract and any and all binding agreements pursuant hereto will become null and void upon no less than twenty-four (24) hour's notice in writing to the Consultant. Such notice shall be delivered by certified mail, return receipt requested. HABC shall be the final authority as to the determination of the availability of funds. In such event the Consultant shall be entitled to receive equitable compensation for all work completed and accepted prior to such termination or cancellation as allowed for in the Contract.

34. GOVERNMENT RESTRICTIONS: In the event any governmental restriction may be imposed which would necessitate alteration of the performance of services offered, it shall be the responsibility of the Consultant to notify HABC immediately in writing and specify the regulation which required an alteration. HABC reserves the right to accept any such alteration, including any reasonable price adjustments occasioned thereby, or cancel the Contract at no expense to HABC. In such event the Consultant shall be entitled to receive equitable compensation for all work completed and accepted prior to such termination or cancellation as allowed for in the Contract.

35. CLEAN AIR AND WATER: "Facility" as used herein means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by the Consultant or any subcontractor, used in the performance of the Contract or any subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency (EPA) determines that independent facilities are collocated in one geographical area.

(a) The Consultant agrees:

(i) To comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q)) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387); and

(ii) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Contract was awarded unless and until the EPA eliminates the name of the facility from the listing; and

(iii) To insert the substance of this Section 35 in all nonexempt subcontracts.

36. ENVIRONMENTAL PROTECTION: The Consultant shall be responsible to protect the environment of work areas as affected by this Contract, including controlling of lead hazards as more fully set forth in the RFP. The Consultant shall be responsible for the proper disposal of all hazardous solid, liquid, and gaseous contaminants and refuse in accordance with all federal, state and local codes and regulations. All chutes for refuse shall be covered or of such as design to fully confine the material to prevent the dissemination of dust.

37. FACILITIES: HABC reserves the right to inspect the Consultant's facilities at any time with reasonable notice.

38. THE COPELAND ANTI-KICKBACK ACT: The Consultant shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

39. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT: Where applicable, the Consultant shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). The Act provides that contracts over \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702, each contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work over 40 hours must be compensated at a rate of not less than one and a half times the basic rate of pay. The requirements of 40 U.S. C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

40. NOTICE: All notices required to be given by either party under the terms of the Contract shall be in writing and shall be deposited in the U.S. Mail, postage prepaid, or delivered by a recognized national express courier, addressed to the applicable party at the address set forth below. (Telephone number provided for emergencies only.)

If to the Consultant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_

If to HABC:

Housing Authority of Baltimore City  
Fiscal Operations, Procurement Division  
417 East Fayette Street, Suite 401  
Baltimore, Maryland 21202

Attention: Steve Suit, C.P.M.  
Director of Procurement & Contracting  
Telephone: 443-984-1808

41. WARRANTY OF TITLE: The Consultant warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

42. CONFLICT OF INTEREST: In addition to the provisions of Sections 13 and 14 of "Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I", concerning conflicts of interest, the following provisions shall apply to this Contract:

(a) Neither HABC nor any of its contractors or their subcontractors may enter into any contract or arrangement in connection with a project in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

(i) Any present or former member or officer of the governing body of HABC or any member of the immediate family of such member or officer. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policy-making position with the resident corporation, HABC or a business entity.

(ii) Any employee of HABC who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

(ii) Any public official, member of the local governing body, or State or local legislator, or any member of such individual's immediate family, who exercises functions or responsibilities with respect to the project(s) or HABC.

(b) For purposes of this Clause, the term, "immediate family member" means the spouse, mother, father, brother, sister, or child of a covered class member (whether related as a full blood relative, or as a "half" or "step" relative, e.g. a half-brother or stepchild).

(c) No member of or delegate to the Congress of the United States of America or any representative of HABC shall be admitted to any share or part of this Contract or to any benefits which may arise from it.

(d) As provided in the Annotated Code of Maryland, Section 12-310 of the Housing and Community Development Article, a commissioner or employee of HABC may not acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he/she have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.

(e) In addition, the provisions of the Baltimore City Ethics Law Article VII, Section 123 of the Baltimore City Charter (1964 Revision) and Article 8 of the Baltimore City Code (1983 Replacement Volume) shall also apply.

(f) The Consultant must disclose any member of these classes of persons and the member's interest or prospective interest in the Contract to HABC and HUD.

(g) The Consultant has certified in its proposal that to the best of its knowledge and belief, and except as may have been otherwise disclosed, no member of the classes of persons listed above has an interest or prospective interest, direct or indirect, financial, contractual, organizational or otherwise, in the Consultant.

(h) The Consultant has further certified that to the best of its knowledge and belief and except as may have been otherwise disclosed in the certification, it does not have any actual or apparent organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this Contract and the Consultant's organizational, financial, contractual or other interests may: (i) result in an unfair competitive advantage to the Consultant; or (ii) impair the Consultant's objectivity in performing the Contract work. The Consultant has further certified that it has no affiliated entities, as that term is defined in the conflict of interest disclosure statement form completed by the Consultant and incorporated by reference and made a part hereto, or has otherwise disclosed such affiliated entities to HABC.

(i) The Consultant understands and agrees that HABC has relied upon these certifications to make this contract award. The Consultant agrees that if it discovers an actual or apparent conflict of interest, financial, contractual, organizational or otherwise, with respect to this Contract, it shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Consultant has taken or intends to take to eliminate or resolve the conflict. HABC may, however, terminate the Contract for the convenience of HABC and/or HUD.

(j) The Consultant agrees to include the terms of this conflict of interest clause and any other necessary provisions to eliminate conflicts of interest in all subcontracts and consulting agreements resulting from this Contract.

(k) During the term of the Contract, the Consultant and its subcontractors and their collective principals, member, affiliates and partners, shall be prohibited from providing services for or on behalf of any person, firm or company, which is in a position that is adverse to the interests of HABC, if the services rendered by the Consultant to such person, firm or company may be used against HABC. A position adverse to the interests of HABC shall include, but not be limited to, a person, firm or company that has a claim for damages against HABC in any judicial or administrative tribunal. Further, the Consultant shall not engage any subcontractor for the performance of any services under the proposed contract if such subcontractor has, at any time within the twelve (12) consecutive month period preceding the commencement of its engagement with the Consultant under the proposed contract, provided any services for or on behalf of any person, firm or company, which is in a position that is adverse to the interest of HABC. The Consultant shall insert and enforce a similar provision in its contract documents with each subcontractor. From time to time, during the term of the Contract HABC may require: (i) the Consultant to submit a certification and affidavit as to the Consultant's compliance with the terms of this subsection k; and (ii) the Consultant to submit

to HABC a certification and affidavit from any or all subcontractors as to their compliance with such substantially similar provision as shall be enforced by the Consultant. The Consultant shall immediately terminate any subcontractor in violation of the terms of this subsection k. Failure of the Consultant to comply with the requirements of this subsection j, or to terminate immediately any subcontractor in violation of such provision, shall constitute a default under the Contract and grounds for termination of the Contract for cause, without liability to HABC.

43. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

(a) The Consultant has certified that neither the Consultant nor any of its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by HUD or any other Federal department or agency, and except as may have been otherwise disclosed in the certification. This certification is a material representation of fact upon which reliance was placed to award this Contract. The Consultant understands and agrees that if it is later determined that the Consultant knowingly rendered an erroneous certification, HABC may terminate the Contract without liability to the Contract, and in addition to other remedies available to the Federal Government, HUD may pursue available remedies, including suspension and/or debarment.

(b) The Consultant agrees to provide immediate written notice to HABC if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The Consultant agrees to immediately remove and replace any of its principals or subcontractors later found to be ineligible to participate in this Contract, at no additional cost to HABC.

(c) The Consultant agrees to obtain a similar certification regarding debarment, suspension, ineligibility and voluntary exclusion from participation in Federally funded contracts, from its subcontractors, and to include the substance of this Section 41 in all subcontracts resulting from this Contract.

44. CANCELLATION: Irrespective of any default hereunder HABC may also at any time at its discretion cancel the Contract in whole or in part, delete any scheduled item and/or reduce/increase the quantity of any scheduled item as deemed necessary by HABC. In such event the Consultant shall be entitled to receive equitable compensation for all work completed and accepted prior to such termination or cancellation as allowed for in the Contract.

45. NO ARBITRATION: Notwithstanding anything to the contrary stated elsewhere in this Contract including any contract document enumerated above or any other document, there shall be no arbitration or mediation of any matter, claim, or dispute arising from this Contract, without the express written consent of both parties at the time such matter, claim, or dispute arises. No provision for arbitration or mediation without the consent of the parties contained in this document or any other Contract Document or any other document shall be binding upon or enforceable against HABC.

46. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept, or performed after the expiration or termination of the Contract, it shall survive after the expiration or termination of the Contract and remain binding upon and for the benefit of the parties hereto until fully observed, kept, or performed. All

representations, warranties, covenants and agreements made by Consultant in connection with this Contract, hereto and all certificates delivered by the Consultant shall survive the expiration or termination of this Contract. Notwithstanding any provision to the contrary elsewhere in the Contract, the Consultant shall remain liable to HABC for damages resulting from conditions created by an act or omission of the Consultant, its subcontractors, employees, and agents, including conditions that may not immediately manifest by the expiration date of the Contract. The Consultant agrees to indemnify and hold HABC and its officials and employees harmless for any claims or damages resulting from such conditions.

47. PREVAILING WAGES:

(a) In accordance with 42 U.S.C. 1437j, the Consultant shall pay not less than wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by the Secretary of HUD, to all professional, technical, executive, supervisory and administrative employees, if required under the RFP. The Consultant shall furnish certifications of compliance with the foregoing prevailing wage requirements, with each invoice or statement of account submitted to HABC for services rendered.

(b) In the event that HABC receives notice of underpayment of wages required to be paid under the requirement above, HABC may withhold from the Consultant, out of the payment due, any or all amounts until Consultant has paid the appropriate wages to such employees.

48. EFFECT OF PROTEST. If HABC receives a notice of protest after award or execution of this Contract, and the protest is considered timely, HABC may, in its sole discretion and without any liability to the successful bidder, rescind the notice of award and cancel the award, or take any other action permitted by law, without liability to Consultant. If the Contract has been executed prior to notice of a protest, the Contracting Officer may by written order to the Consultant, direct the Consultant to stop performance of the work called for by the Contract. The order may be specifically identified as a stop-work order or order for suspension of work. Upon receipt of the order, the Consultant agrees to immediately comply with its terms and take all reasonable steps to minimize incurring of costs allocable to the work covered by the order during the period of work stoppage. Upon the final HABC decision on the protest, or if HABC determines it is in its best interests not to proceed with the Contract during the adjudication of the protest, HABC shall in its sole discretion, either: (i) cancel the stop-work order; (ii) terminate the Contract for convenience of HABC in accordance with the Termination for Convenience Clause provided in Section 18 above and in Section 3 of "Form HUD-5370-C - General Conditions for Non-Construction Contracts - Section I"; or take any other action to protect the interests of HABC and its funding sources for this Contract. 49. SAVING  
CLAUSE: The Consultant agrees and expressly acknowledges the possibility of changes in Federal and State regulations applicable to the Contract and expressly agrees to amend the Contract as necessary to comply with such changes.

50. GOVERNING LAW: The place of performance of the Contract shall be the State of Maryland. The Contract shall be governed, construed, interpreted, and enforced according to Maryland law.

51. WAIVER: The rights and remedies of HABC provided for under the Contract are in addition to any other rights and remedies which HABC may have as a matter of law. A waiver by HABC of any terms and conditions of the Contract in any instance shall not be deemed or construed to be a waiver of any such term or condition for the future or any subsequent breach

or occurrence thereof. Neither HABC's review, approval or acceptance of, nor payment for the services required under the Contract shall be construed to operate as a waiver of any rights or cause of action which HABC may have under the Contract, and the Consultant shall be and remain liable to HABC for all damages to HABC caused by the Consultant in the performance of the services under the Contract.

52. SEVERABILITY: If any particular provision of the Contract is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not be affected by such declaration and shall remain valid and fully enforceable, and the Contract shall be construed as if such invalid or unenforceable provision were omitted.

53. USE OF PLURAL OR SINGULAR: The plural or the singular shall be used or substituted for the singular or plural number, respectively, without intending a change in meaning, in any place or places herein in which the context may require such substitution or substitutions.

54. USE OF MASCULINE OR FEMININE: Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the feminine gender shall be deemed to refer to and include the masculine and neuter

55. LEGAL CONSTRUCTION: This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions and components. Each and every provision of this Agreement shall be construed as though each of the parties participated equally in the drafting of same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

56. RECITALS: The recitals and/or whereas clauses are hereby incorporated as a part of this Contract.

57. HEADINGS AND CAPTIONS: Headings and captions in this Contract are for convenience only and shall not be used to interpret or construe its provisions.

58. ATTACHMENTS AND EXHIBITS: Each writing or other document referred to in this Contract as being attached hereto as an attachment or otherwise designated as an attachment or exhibit hereto is hereby made a part of this Contract. The following certifications and representations of Consultant submitted with its proposal are attached hereto and incorporated by reference and made a part of this Contract:

59. ENTIRE AGREEMENT: The Contract shall be executed in duplicate original documents and shall constitute the entire agreement between HABC and the Consultant. The Contract shall not become effective until executed by HABC and cannot be amended or modified unless such amendment or modification is signed by HABC. The Contract shall be binding upon the Consultant, its heirs, successors, executors, and at HABC's discretion, its assigns.

**[End Attachment 7]**

**Attachment 8**

**Prime Contractor MBE Statement of Intent**

Housing Authority of Baltimore City  
Fair Housing and Equal Opportunity  
417 E. Fayette Street, Suite 401  
Baltimore, MD 21202

Prime Contractor MBE/WBE STATEMENT OF INTENT

Date: \_\_\_\_\_

Prime Contractor's Name: \_\_\_\_\_

Prime Contractor's Address: \_\_\_\_\_

Contract Name and Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ MBE Commitment: \_\_\_\_\_

\_\_\_\_\_ agrees to enter into a contractual agreement  
with \_\_\_\_\_, who will provide the following services in  
connection with the above contract \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Total Dollar Amount of Contract:	\$ _____
Total Dollar Amount of MBE Subcontract:	\$ _____
Total Dollar Amount of WBE Subcontract:	\$ _____
Total MBE Percentage of Total Contract Value:	\$ _____

\_\_\_\_\_ is currently certified with the \_\_\_\_\_  
(MBE or WBE Subcontractor)  
\_\_\_\_\_ Office to function in the aforementioned  
capacity. \_\_\_\_\_ certification number is \_\_\_\_\_.  
(MBE or WBE Subcontractor)

The undersigned Prime contractor and subcontractor agree to enter into a contract for the work/service indicated above for the dollar amount or percentage indicated, contingent upon the prime contractor's execution of a contract with the Housing Authority of Baltimore City for the above referenced contract number.

\_\_\_\_\_  
Prime Contractor Signature (required)

\_\_\_\_\_  
MBE or WBE Signature (required)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Complete a separate form for each MBE/WBE named in Bid.**

## ATTACHMENT 9A: SECTION 3 OBLIGATIONS OF CONTRACTOR

### SECTION 3 HOUSING AND URBAN DEVELOPMENT (HUD) ACT OF 1968

#### 1. General

The Contract is considered a Section 3 covered contract pursuant to Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C.A. Section 1701u, et seq., and the implementing regulations issued pursuant thereto, 24 C.F.R. part 135 et seq. ("Section 3"). Section 3 requires that each applicant, recipient, contractor, or subcontractor undertaking work on a Section 3 covered project shall assure that, to the greatest extent feasible, contracts for work to be performed in connection with the project are awarded to business concerns located within the Section 3 covered project area or business concerns owned in substantial part by persons residing in the Section 3 covered area. HUD in consultation with the Small Business Administration will establish for the Section 3 covered project area a registry of business concerns which meet the definition contained in Paragraph 135.5 (b) and (c). Each applicant, recipient, Contractor or Subcontractor undertaking work in connection with a Section 3 covered project shall fulfill his/her obligations to utilize business concerns located within or owned in substantial part by persons residing in the Section 3 covered project area by developing and implementing an affirmative action plan.

#### 2. Section 3 – Employment and Training of Lower Income Persons, Subcontracting With Section 3 Businesses --135.20 Assurance of Compliance with Regulations (Section 3 Clause)

The Contractor and its subcontractors shall insert in all contracts for work in connection with the Contract awarded under this RFP, the following clause (referred to as the Section 3 Clause):

- a. The Work to be performed under the Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 required that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for Work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.
- b. The parties to the Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135.2B, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract. The parties to the Contract certify and agree that they are under

no contractual or other disability, which would prevent them from complying with these requirements.

- c. The Contractor will send to each labor organization or representative of workers with which he/she has a collective bargaining agreement or other Contract or understanding, if any, a notice advising the said labor organization or workers' representative of his/her commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The Contractor will include this Section 3 clause in every subcontract for Work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135.2B. The Contractor will not subcontract with any Subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135.2B and will not let any subcontract unless the Subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135.2B, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its Contractors and Subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.2B.135.

### 3. Bidding and Negotiation Requirements

Every applicant and recipient shall require prospective Contractors for Work in connection with Section 3 covered projects to provide, prior to the signing of the Contract, a preliminary statement of work force needs (skilled, semiskilled, unskilled labor and trainees by category) where known; where not known, such information shall be supplied prior to the signing of any Contract between Contractors and their subcontractors.

#### 4. Utilization of Businesses Located In Or Owned In Substantial Part By Persons Residing In the Section 3 Area

#### 5. 135.70 Development Of An Affirmative Action Plan

In developing an affirmative action plan, each applicant, recipient, Contractor and Subcontractor preparing to undertake work pursuant to a Section 3 covered contract shall:

- a. Set forth the approximate number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or Profession) over the duration of the Section 3 covered project in question.
- b. Analyze the information set forth in paragraph (a) of this section and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a) of this section, and set forth a goal or target number and estimated dollar value of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project.
- c. Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include, but not be limited to, the following actions:
  - (1). Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, Contractor, or Subcontractor letting the contract; and
  - (2). Identification with the bid documents, if any of the applicable Section 3 project area.
- d. Indicate the anticipated process and steps which have been taken and/or will be taken to secure the cooperation of Contractors, Subcontractors, and unions in meeting the goals and carrying out the affirmative action plan developed pursuant to this subpart.
- e. Take steps to insure that the appropriate business concerns included in the Department's registry for the Section 3 covered project area are notified of pending contractual opportunities either personally or through locally utilized media. All applicants, recipients, contractors, and subcontractors which so notify concerns included in the Department's registry of available contracts and of opportunities to submit bids shall satisfy all requirements of this Part for notification of business concerns located within the Section 3 covered project area and business concerns owned in substantial part by persons residing in the Section 3 covered project area.
- f. Take steps to insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- g. Where competitive bids are solicited, require the Responders to submit their utilization goals, and their affirmative action plans for accomplishing their goals, and in evaluating each bid, to determine its responsiveness, carefully evaluate the Responders' submission to determine whether the affirmative action plan proposed will accomplish the stated goals.
- h. Where advantageous, seek the assistance of local officials of HUD in preparing and implementing the affirmative action plan.
- i. In implementing its affirmative action plan, each applicant, recipient contractor, or subcontractor shall make a good faith effort to achieve its

goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project. Each applicant, recipient, Contractor, or Subcontractor seeking to establish that a good faith effort has been made to implement its affirmative action plan, as required by this paragraph, shall as a minimum, set forth evidence acceptable to the Secretary that it has implemented the steps required by paragraphs (C), (D), (E), (F), (G) and (H) of this section and has ascertained from the Department's Regional Administrator, Area Office Director, or FHA Office Director having jurisdiction over the Section 3 covered project, the boundaries of the Section 3 covered project area, if available, and attempted to recruit from the appropriate areas the necessary eligible business concerns through: Local advertising media, signs placed at the proposed site for the project; and community organizations and public or private institutions operating within or serving the project area such as Project Area Committees (PAC), Office of Economic Development (OED), citizen advisory boards, Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service, as well as the Chamber of Commerce and any equivalent organizations in the Section 3 covered project area.

#### RESIDENT EMPLOYMENT

- a. It is the policy of HABC that, to the greatest extent feasible, opportunities for training and employment be given by the Contractors and Subcontractors to residents of public housing owned by HABC.
- b. The Contractor agrees to use its best efforts to carry out this policy in accordance with HABC's Affirmative Action Plan and in the awarding of its subcontracts to the fullest extent consistent with the efficient performance of the Contract.
- c. The Resident Employment Goal for the Contract is that 50% of all new hires for Work accomplished under the Contract be current residents of public housing.
- d. Names of residents who would be suitable for this Work may be obtained from HABC. The Contractor shall give primary consideration to those residents equally qualified to perform the Work over non-residents.

#### CONTRACTORS DISCLOSURE OF BEST EFFORTS BEFORE ISSUE OF JOB ORDER:

A Job Order will not be awarded to a Contractor (that intends to offer training and employment opportunities in connection with the Contract) unless the Contractor has disclosed to HABC the best efforts that the Contractor intends to undertake to meet the Section 3 training and employment preference, and the HABC has approved these efforts in accordance with the following procedures:

The Fair Housing & Equal Opportunity Office (FH&EO) is responsible for implementing the HABC Section 3 Program. Through the HABC Special Conditions contained in Volume I of the Proposal Documents- Proposal Information and Contractual Documents the FH&EO Office has provided notice of the Section 3 requirements.

SECTION 3 REQUIREMENTS MUST AT A MINIMUM INCLUDE THE FOLLOWING FOR ALL CONTRACTS.

a. 50% of all new hires must be project area residents:

1. Public Housing Project Area Resident
2. Public Housing Non Project Area Resident
3. Youth Build Participant
4. Baltimore Metropolitan Area Resident
- \* Baltimore Metropolitan Area Resident/Project Area

b. All Prime Contractors will be responsible for notifying their sub-contractors of the Section 3 requirements.

c. All prime Contractors must identify to the FH&EO Office a Section 3 plan, which will include:

1. What steps will be used to implement the hiring of Section 3 residents and to utilize Section 3 business concerns.
2. Identify proposed Section 3 business trades and/or services needed for each specific purchase order. Also identify the proposed specific job force.
3. The aforementioned information must be submitted with each Cost Proposal prepared for jobs under the Contract with a copy being provided to FH&EO. Failure to provide the FH&EO the requested Section 3 information set forth above may result in the rejection of the proposal.
4. Package subcontracts for work to be done in a manner that will provide to the maximum extent feasible, opportunities for Section 3 businesses to participate. Consideration will be given to items such as:
  - i. Size of subcontract (dollar amount), and
  - ii. Scope of work or type of work identified Section # businesses are able to provide.
5. Termination Because Of Failure To Comply With The Requirement For Training And Employment Of Lower Income Persons.

A breach of any of the Paragraphs contained in the Section 3 Paragraphs of these Special Conditions may be grounds for termination of the Contract and for debarment as provided in 24 CFR 135.

6. Examination of Contractor's Records

On all contracts (except those of \$10,000 or less) the Executive Director, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor or Subcontractors which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

The successful Responder for all contracts in excess of \$50,000 will be required to provide prior to the signing of the Contract, a preliminary statement of work force needs (skilled, unskilled labor and trainees by category). The Contractor will be required to maintain a list of all project area residents who train and hire project area residents.

#### PROCEDURES FOR EXECUTING SECTION 3 REQUIREMENTS:

The activities described in this section should be undertaken by the prime Contractor and the subcontractors in order to implement Section 3 training and employment initiatives. Prime Contractors and subcontractors are not limited to these actions and are encouraged to develop innovative methods to increase training and employment opportunities for low-income persons. Contractors are especially encouraged to offer certified apprenticeship training available to residents whenever possible.

The following indicates activities which may be taken in any combination, and which may demonstrate affirmative efforts to offer training and employment opportunities to low-income persons:

- a. Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required and where to obtain additional information about the application process).

In order to assist the Contractors, the FH&EO Office, with the assistance of on-site housing management, resident councils, and other resident organizations, and the on-site employment service (when available) will make certain flyers are properly distributed through-out the project area.

- b. Contacting resident councils, resident management corporations, or other resident organizations, and advising them of the opportunities for employment.
- c. Job information meetings will be conducted by the FH&EO Office and the Contractor representative (s) at the development where the work is being done prior to commencing work at the project.
- d. The FH&EO Office will arrange for a location in the housing development where job applications may be delivered to and collected by the Contractor(s) or their representative.

To assist the Contractor with the recruitment of Section 3 residents, the Housing Authority has obtained the assistance of the Department of Economic and Employment Development (DEED). DEED will undertake on behalf of the

Contractor, the efforts to match eligible and qualified low-income persons with the training and employment positions that the Contractor intends to fill. The service will also assist the Housing Authority with establishing and maintaining a viable pool of applicants.

A list of DEED Office locations is available at the FH&EO Office. Residents may complete applications at DEED Office locations and arrangements may be made through the DEED Office for Contractors to conduct interviews on-site.

- e. The FH&EO Office will monitor Section 3 residents participating on Section 3 projects. The FH&EO Office must be notified of residents who are terminated within 24 hours of the termination. Additionally the Contractor should replace the terminated resident with another Section 3 employee within 48 hours.
- f. This list of available Section 3 outreach activities may not be inclusive, therefore, any concerns or questions which the Contractors may have regarding implementation of the Section 3 program should be addressed to the:

Fair Housing and Equal Opportunity Office  
417 E. Fayette Street, Suite 922  
Baltimore, Maryland 21202  
Attn: Felecia Hill, Equal Opportunity Specialist  
Office: 410-396-1969  
[felecia.hill@habc.org](mailto:felecia.hill@habc.org)

**Attachment 9B**

**Section 3 Compliance Plan**

**Please submit a Section 3 Compliance Plan see Section 10.2 (e) For Contents of  
Compliance Plan**

**Attachment 9C**

**First Source Hiring Agreement**

**HOUSING AUTHORITY OF BALTIMORE CITY**  
**FAIR HOUSING AND EQUAL OPPORTUNITY**  
417 E. FAYETTE STREET, SUITE 922  
BALTIMORE, MD 21202  
410-396-3246  
410-396-8194 (FAX)

**SECTION 3 OF THE HUD ACT OF 1968, AS AMENDED**  
**FIRST SOURCE HIRING AGREEMENT**

If Section 3 employment or training opportunities will be generated from this contract, Responders shall comply with the First Source Hiring Agreement. In accordance with the First Source Hiring Agreement, Responders agree to solicit applicants from the HABC, Resident Services People Accessing Continued Employment (PACE) Program.

**Instructions**

1. Complete the attached First Source Hiring agreement statement and submit with your proposal.
2. Contact the HABC Office of Resident Services, P.A.C.E. program within ten (10) days of receiving the notice of award for each contract or individual Job Order. P.A.C.E. will assist you with meeting your workforce needs for the contract and assisting you in your efforts to comply with your Section 3 obligations.

HABC Office of Resident Services  
201 N. Alsquith Street  
Baltimore, MD 21202  
410-545-0921

**HOUSING AUTHORITY OF BALTIMORE CITY  
FAIR HOUSING AND EQUAL OPPORTUNITY  
417 E. FAYETTE STREET, SUITE 922  
BALTIMORE, MD 21202  
410-396-3246  
410-396-8194 (FAX)**

**SECTION 3 OF THE HUD ACT OF 1968, AS AMENDED  
FIRST SOURCE HIRING AGREEMENT**

Submission deadline: \_\_\_\_\_  
Contractor's name: \_\_\_\_\_  
Contractor's address: \_\_\_\_\_  
Contractor's telephone number: \_\_\_\_\_  
Contractor's email address: \_\_\_\_\_  
Contract title: \_\_\_\_\_  
Contract number: \_\_\_\_\_

PACE is the recruitment and referral service used by HABC to help Responders comply with the Section 3 requirements. In accordance with the First Source Hiring Agreement, Responders are required to contact PACE within ten (10) days from the date of notice of contract award and advise PACE of the number of jobs or training opportunities generated from the awarded contract; the classification of the available positions; and to discuss potential ways that the recipient of the contract award can perform its obligations under Section 3. Upon receipt of the Responders employment and training needs, PACE will refer qualified HABC residents to the Responders to interview for the available positions. Responders agree to use other referral sources only if PACE cannot refer qualified applicants to Responders within three (3) business days of being notified of Responders employment and/or training needs.

The undersigned Contractor agrees to utilize HABC's PACE program to meet its Section 3 employment, training and Section 3 business needs under this contract with HABC. The undersigned shall comply with the terms of Section 3 of the HUD Act of 1968, as amended as described in the solicitation documents. Under this agreement, contract awardees will complete and submit this certification with the bid package.

I, \_\_\_\_\_, representing \_\_\_\_\_  
(Name and Title) (Name of Responder)  
certify that I will contact the PACE program within ten (10) days of notice of contract award. I agree to interview qualified Section 3 eligible applicants *First* for available positions. I agree to submit a Section 3 Employee Tracking form indicating the number of total workers and number of Section 3 residents on payroll at 25%, 50% 75% and 100% completion of the contract as a condition of release of a final payment or any and all retainage.

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

Signature of Prime Contractor: \_\_\_\_\_ Date: \_\_\_\_\_

**Attachment 10**

**Certification for Business Concerns Seeking Section 3 Preference in Contracting**

**Housing Authority of Baltimore City  
Fair Housing and Equal Opportunity Office  
417 E. Fayette Street, Suite 922  
(410) 396-3246 (410) 396-8194 (f)**

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING  
SECTION 3 PREFERENCE IN CONTRACTING**

**Name of Business:** \_\_\_\_\_  
**Business Address:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_ **Fax:** \_\_\_\_\_  
**E-mail Address:** \_\_\_\_\_  
**Project Name & Number** \_\_\_\_\_

**Attached is the following documentation as evidence:**

**Type of Business:** ☐ Corporation ☐ Partnership  
☐ Sole Proprietorship ☐ Joint Venture

**For Business claiming status as a HABC Resident-owned Section 3 Business:**

- ☐ Copy of HABC Dwelling Lease
- ☐ Copy of Articles of Incorporation
- ☐ Certificate of Good Standing
- ☐ Other Evidence

**For Business claiming status as a Section 3 Business:**

- ☐ Copy of Articles of Incorporation
- ☐ Certificate of Good Standing
- ☐ Additional documentation

**For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 Business:**

- ☐ List of subcontracted Section 3 Business (es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 Residents or were Section 3 eligible residents within 3 years of date of first employment with business:**

- ☐ List of all current full-time employees
- ☐ List of employees claiming Section 3 status
- ☐ HABC residents' leases
- ☐ Other evidence of Section 3 status less than 3 years from date of employment

Under penalty of perjury, I certify that I am the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Name of Company), that I am authorized by the \_\_\_\_\_ to execute this affidavit on its behalf, that the documents I have submitted in support of my claim as a Section 3 Business are true and accurate, and that I have personal knowledge of the certifications made in this affidavit and that the same are true.

**Authorizing Name and Signature** \_\_\_\_\_

**Name (printed)** \_\_\_\_\_

**Subscribed and sworn to before me this** \_\_\_\_\_ **day of** \_\_\_\_\_, 20\_\_\_\_

**Notary** \_\_\_\_\_

**My commission expires:** \_\_\_\_\_

### Section 3 Business Self-Certification Form

**An authorized official must sign the following statement, notarized if applicable, and submitted along with the bid.**

**The Contractor represents and certified that it:**

☐ a Section 3 business as indicated below {check applicable category and subcategory}:

☐ **Category 1 Business**

- ☐ Fifty-one percent (51%) or more owned by residents of the specific community or communities for which the Section 3 covered assistance is expended; or
- ☐ Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.

☐ **Category 2 Business**

- ☐ Fifty-one percent (51%) or more owned by residents of another specific community or communities managed by The Housing Authority that is expending the Section 3 covered assistance; or
- ☐ Full-time, permanent workforce included thirty percent (30%) of the above residents as employees.

☐ **Category 3 Business**

- ☐ An entity selected to carry out a HUD Youthbuild Program in the metropolitan area or Non-metropolitan County, in which the Section 3 covered assistance is expended.

☐ **Category 4 Business**

- ☐ Fifty-one percent (51%) or more owned by Section 3 residents; or
- ☐ Full-time, permanent workforce includes no less than thirty percent (30%) Section 3 residents; or
- ☐ Will subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to business concerns identified above.

☐ is **not** a Section 3 business (**form must be notarized ONLY IF CERTIFYING as a Section 3 business**).

Subscribed and sworn to before me  
this \_\_\_\_\_

day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary  
My commission expires:

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Title

\_\_\_\_\_  
Project Name

\_\_\_\_\_  
Project Number

**HOUSING AUTHORITY OF BALTIMORE CITY  
FAIR HOUSING & EQUAL OPPORTUNITY  
SECTION 3 PROGRAM**

**SECTION 3 EMPLOYEE CERTIFICATION FORM**

This form is to be used by contractors or a subcontractor, working on HUD-funded projects, to certify that an employee is an eligible Section 3 resident. The contractor/subcontractor and Section 3 employee must sign this certification.

<b>PART I</b>				<b>TO BE COMPLETED BY EMPLOYER</b>			
Project Name No. (if applicable)						Date Completed:	
Company:							
Address:						State:	
City:						Zip:	
Person Completing This Form:		Office #:		Fax #:		Email Address:	

<b>PART II</b>		<b>TO BE COMPLETED BY EMPLOYEE</b>	
----------------	--	------------------------------------	--

I am an employee of the business listed above, AND  
(Please answer by placing a check in the appropriate box)

I am a HABC resident. If yes, skip to Part III.

I am a low-income resident as defined by HUD, residing in the covered metropolitan area. My Total Household Income is not greater than the amount listed below based on the number of persons in my family.

**HUD's FY2019 INCOME LIMITS SUMMARY**

*Please check the box that applies*

Income Limits	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Very Low (50%)	\$35,350	\$40,400	\$45,450	\$50,500	\$54,550	\$58,600	\$62,650	\$66,700
Extremely Low (30%)	\$21,250	\$24,250	\$27,300	\$30,300	\$32,750	\$35,150	\$39,010	\$43,430
Low (80%)	\$52,850	\$60,400	\$67,950	\$75,500	\$81,550	\$87,600	\$93,650	\$99,700

Under penalty of perjury, I certify that my personal information provided on this form is true and accurate. I agree to provide any documentation (if requested) that confirms the accuracy of my Residency, Family Size and Total Household Income for the stated calendar year.

<b>PART III</b>		<b>TO BE COMPLETED BY EMPLOYEE</b>	
-----------------	--	------------------------------------	--

Employee Name (printed):			Date Hired:	
Address:		City:	State:	Zip:
		HABC Development		acct. No.
Employee Signature:			Date:	

The goal of the HUD-Section 3 requirement is to provide self-sufficiency opportunities to residents and businesses of neighborhoods receiving HUD funding for fair housing and community development activities.  
This certification is subject to all rules and regulations developed by the HUD Fraud, Waste and Abuse Office.

**Attachment 11**

**Form HUD-5369-B Instructions to Offerors Non-Construction**

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

## 2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

## 3. Amendments to Solicitations

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

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

## 4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

## 5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

## 6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

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

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

#### **7. Contract Award**

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

#### **8. Service of Protest**

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

#### **9. Offer Submission**

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

**Attachment 12**

**Form HUD-5369-C Certifications and Representations of Offerors**

**Certifications and  
Representations  
of Offerors  
Non-Construction Contract**

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

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

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

**1. Contingent Fee Representation and Agreement**

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

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

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

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

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

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

- (a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

**3. Certificate of Independent Price Determination**

(a) The bidder/offers certifies that—

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

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

- (1) Is the person in the bidder/offers's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offers's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offers's organization);  
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

**Attachment 13**  
**General Wage Decision**

"General Decision Number: MD20200061 01/03/2020

Superseded General Decision Number: MD20190061

State: Maryland

Construction Type: Residential

County: Baltimore City County in Maryland.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts,

including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/03/2020

\* CARP0251-007 05/01/2017

	Rates	Fringes
FLOOR LAYER: Carpet.....	\$ 29.05	11.23

-----  
SUMD2012-021 06/25/2014

	Rates	Fringes
BRICKLAYER (Insulator Foam).....	\$ 21.60	0.00
CARPENTER, Excludes Drywall Hanging, and Metal Stud Installation.....	\$ 19.41	3.11
CEMENT MASON/CONCRETE FINISHER...	\$ 18.92	0.00
DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 16.36	0.62
ELECTRICIAN.....	\$ 22.59	0.81
IRONWORKER, ORNAMENTAL.....	\$ 17.31	0.00
LABORER: Common or General, including brick mason tending and cement mason tending.....	\$ 13.81	0.00
LABORER: Pipelayer.....	\$ 16.19	2.15

## OPERATOR:

Backhoe/Excavator/Trackhoe.....\$ 18.40	4.42
---	------

OPERATOR: Loader.....\$ 20.25	2.06
-------------------------------	------

## PAINTER (Brush and Roller),

Includes Drywall

Finishing/Taping.....\$ 15.23	0.70
-------------------------------	------

## PLUMBER (HVAC Pipe

Installation Only).....\$ 17.60	0.00
---------------------------------	------

## PLUMBER, Excludes HVAC Pipe

Installation.....\$ 20.48	0.00
---------------------------	------

ROOFER.....\$ 26.80	0.00
---------------------	------

## SHEET METAL WORKER (HVAC Duct

Installation Only).....\$ 18.82	1.20
---------------------------------	------

## SPRINKLER FITTER (Fire

Sprinklers).....\$ 26.06	6.52
--------------------------	------

-----

WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.

=====

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other

health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

-----

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

-----

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

"