

HOUSING AUTHORITY OF BALTIMORE CITY

INVITATION FOR BIDS

B-1901-19

GILMOR HOMES WINDOW REPLACEMENT

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**Issuance Date: Monday,**  
**July 29, 2019**  
**Pre-Bid Meeting: Tuesday,**  
**August 6, 2019 at 11:00 a.m.**  
**Submission Deadline:**  
**Friday, August 23, 2019**  
**by 2:00 p.m. Eastern Time**

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HABC IFB NUMBER: B-1901-19**

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**PART 1 - SCOPE OF WORK, INSTRUCTIONS, AND CONDITIONS**

**I. SCOPE OF WORK; IFB CONTENT.**

I.1. SCOPE OF WORK: The Housing Authority of Baltimore City (hereinafter referred to as "HABC"), is a large public housing authority, which administers public and affordable housing programs to eligible families within Baltimore City. 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 and administers the Housing Choice Voucher Program. HABC is issuing this Invitation for Bids ("IFB") for interested and qualified vendors to submit sealed bids to provide window replacement services at Gilmor Homes, as provided in Attachment 1 "Bid Sheet".

I.2. CONTENT OF IFB: This IFB consists of this document, Attachments Nos. 1 - 16 which are attached hereto and incorporated herein.

**II. INSTRUCTIONS TO BIDDERS.**

II.1. SUBMISSION DEADLINE Bids must be received by **2:00 p.m. Eastern Time on Friday, August 23, 2019**. It is the bidder's responsibility to ensure that the bid is delivered by the designated time and date. Bids which for any reason are not delivered by the deadline will not be considered and will be returned unopened.

II.2. PLACE OF SUBMISSION: An original and one (1) copy of the typewritten bid, including all supporting documents and required information, must be executed and submitted in a sealed envelope. The face of the envelope shall be clearly marked with the words "Bid Documents," the IFB number, any project title or other identifying number, the Group Number, the bidder's name, and the deadline for receiving bids. Offers by telegram, telephone, or telecopier, and handwritten bids will not be accepted by HABC.

Submit bids to:

Housing Authority of Baltimore City  
Fiscal Operations,  
Procurement Section  
417 E. Fayette Street, Room 414  
Baltimore, Maryland 21202  
Attention: John Airey, Senior Contract Manager  
Tel: (410) 396-3261  
[john.airey@habc.org](mailto:john.airey@habc.org)

II.3. PRE-BID MEETING: A non-mandatory pre-bid meeting will be held on **Tuesday, August 6, 2019, at 11:00 a.m.** at the Charles L. Benton Building, 417 E. Fayette Street Room 416, Baltimore, Maryland, 21202.

II.4. BID OPENING DATE: A public opening of bids shall be held at **2:10 p.m., Eastern Time on Friday, August 23, 2019** at 417 East Fayette Street, Room 416, Baltimore, Maryland 21202, at which time all timely bids received will be read. All interested parties are encouraged to attend the bid opening.

II.5. BID PREPARATION: (a) Bidders are expected to examine all IFB documents including the instructions, required certifications, specifications, product

descriptions and contract terms and conditions. Failure to do so will be at the bidder's risk.

(b) All bids must be submitted on any bid forms provided by HABC. If such forms are provided, they shall be marked as an attachment and included as part of the IFB.

(c) Each bidder shall furnish all the information required by the solicitation and complete all required certifications and other documents. Unless otherwise expressly stated in the bid form, Attachment 1, or elsewhere in this solicitation, this solicitation requires bidding on all items, and failure to do so will disqualify the bid. If the bid form, Attachment 1, expressly states that bidding on all items is not required, bidders should insert the words "NO BID" in the space provided for any item on which no price is submitted, or otherwise clearly indicate which items on which bids are provided if no particular format is provided by HABC. Further, HABC shall not accept any bid from a bidder who submits more than one bid or quotes more than one price on any item, unless the bid form, Attachment 1, expressly permits the submission of alternate or multiple bids.

(d) Bidders must also include evidence of their capacity to be legally bound by contract such as a copy of a valid certificate of incorporation or organization from the appropriate government agency of the State in which the bidder is incorporated or organized.

**II.6. QUESTIONS AND INTERPRETATIONS:** (a) Any prospective bidder who has questions regarding this IFB or desires an explanation or interpretation of any part of the solicitation, statement of work, and specifications, etc., must request it in writing to HABC at the address noted in Paragraph II.2 above. Such questions and requests for interpretations must be received by HABC no later than **4:30 p.m. Tuesday, August 13, 2019**. Inquiries must reference the IFB number and title, and the date for receipt of bids.

(b) No oral explanation or interpretation will be provided to any bidder. No interpretations shall be considered binding on HABC unless provided in writing by HABC.

(c) Any information provided to a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written addendum or amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders. Addenda and amendments will also be on file in the offices of HABC at least three (3) days before the closing date. All bidders will be bound by such addenda or amendments, whether or not they are received by the bidders. HABC reserves the right to issue addenda or amendments on its own, irrespective of whether questions or requests for interpretations were received from prospective bidders.

(d) Any information obtained by, or provided to, any bidder other than by formal HABC addenda or amendments to the solicitation shall not constitute a change to the solicitation.

**II.7. EXECUTION OF BID:** The original bid and one (1) duplicate must each contain a manual original signature of an authorized representative of the bidder and be accompanied by evidence of that agent's authority. All corrections or erasure made on the bid must be initialed by the authorized representative of the bidder who signed the bid. The bidder's legal company name must appear on the cover

sheet. The bid must include all documents, materials and information required herein. (Bidders should retain an additional copy for their records).

II.8. CONFIDENTIALITY: All bids received shall remain unopened and held confidential until the date and time of the public opening of bids. Bidders are advised that bids received by HABC shall be included as part of the official contract file. Therefore, any part of the bid that is not considered privileged under any applicable Federal, State or local law shall be open to public inspection. The provisions of applicable Federal, State and local laws shall govern the confidentiality of bids notwithstanding anything contrary to this provision stated in the bid.

II.9. TIME AND ORDER OF WORK: The successful bidder and HABC shall agree upon a schedule of time and order of work to ensure prompt completion of the services to be provided. HABC shall issue a Notice to Proceed to the successful bidder before work may commence. The successful bidder must agree to complete and be capable of completing all work required by the agreed upon completion dates. Failure of the successful bidder to adhere to the agreed schedule and completion dates shall be a material breach of the contract.

II.10. COST OF PREPARATION OF BID: All costs incurred, directly or indirectly, by the bidder in responding to or inquiring about this IFB, including travel, preparation, communication, consultation, design, submission, and miscellaneous expenses, shall be the sole responsibility of the bidder and shall be borne by the bidder.

II.11. FEE SCHEDULE AND PRICING INFORMATION: All bidders are required to submit their firm-fixed price for providing the services requested under this IFB in accordance with Attachment 1, titled "BID SHEET." Bidders shall also execute the affidavit of non-collusion contained in Attachment 2.

II.12. MISTAKES IN BIDS, CORRECTION OF BIDS, LATE SUBMISSION OF BIDS AND BID MODIFICATIONS

(a) Correction of Bids Prior to Bid Opening. If a mistake is suspected or alleged by the bidder prior to bid opening, the bidder shall be permitted to withdraw or modify its bid by written notice sent by mail, telegram, or telecopier prior to bid opening, and received by HABC prior to bid opening.

(b) Correction of Bid Price After Bid Opening. A change to or correction in a bid price after bid opening is not permitted unless such correction would not be contrary to the fair and equal treatment of other Firms, and:

(i) The mistake in the bid price and the intended correct bid price are both clearly and convincingly evident on the face of the bid; or

(ii) The mistake in the bid price is not clearly evident on the face of the bid, but the bidder submits clear and convincing written evidence demonstrating: (A) the existence of a mistake in the bid price, and (B) the bid price intended, and (C) how the bid price was calculated but was inadvertently stated incorrectly in the bid.

(c) Correction of Bid Prices After Award. Mistakes in bid prices 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.

(d) Late Submission of Bids and Bid Modifications

(i) Any bid received by HABC after the exact time specified for receipt of bids will not be considered unless it was received by HABC before contract award and it:

(A) Was sent by registered or certified mail and postmarked by the U.S. Postal Service (USPS) not later than the third calendar day before the date specified for receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been postmarked not later than the 17<sup>th</sup> of that month);

(B) Was sent by mail and HABC determines that the late receipt was due solely to mishandling by HABC after receipt at HABC; or

(C) Was sent by USPS Express Mail Next Day Service and postmarked by the USPS not later than one business day prior to the date specified for receipt of bids, or USPS Two-day Priority Mail Service and postmarked by USPS not later than two business days prior to the date specified for receipt of bids, excluding U.S. Federal holidays.

(ii) The only acceptable evidence to establish the date of mailing of a bid or bid modification sent either by registered or certified mail is the USPS postmark both on the envelope or wrapper and on the original receipt from the USPS Service. The only acceptable evidence to establish the date of mailing of a bid or bid modification sent by USPS Express Mail Next Day Service or USPS Two-day Priority Mail Service is the date entered by the USPS on both the bid envelope or wrapper and on the original receipt from the USPS. Both postmarks must show a legible date or the bid or modification 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 USPS on the date of mailing.

(iii) The only acceptable evidence to establish the time a bid or bid modification was received by HABC is the time/date stamp of HABC on the bid or bid modification envelope or wrapper or other documentary evidence of receipt maintained by HABC.

(iv) A late modification of an otherwise successful bid that makes its terms more favorable to HABC will be considered at any time it is received and may be accepted.

(e) Withdrawal of Bids Prior to Bid Opening. A bidder may withdraw its bid at anytime prior to bid opening. Bids may be withdrawn by written notice sent by mail, telegram, or telecopier transmission, or in person by a bidder or its authorized representative prior to bid opening if, before the withdrawal, the identity of the person requesting withdrawal is established and the person signs a receipt and acknowledgment of withdrawal of the bid.

(f) Withdrawal of Bids After Bid Opening. After bids have been opened, a Bidder may be permitted to withdraw a low bid upon written request only if

there is a mistake in the bid that is clearly and convincingly evident on the face of the bid document, and the intended correct bid is not similarly evident; or the Bidder submits written evidence which clearly and convincingly demonstrates that a mistake was made.

II.13. RESPONSIVE BIDS AND RESPONSIBILITY OF BIDDER: (a) To be considered responsive, bids must conform to the material requirements of this IFB, or they will be eliminated from further consideration and award. HABC retains the authority to request and obtain additional information and clarification to determine the responsiveness of bids; (b) HABC will award contracts only to responsible bidders who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, HABC will consider such matters as the bidder's:

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

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

II.14 PREFERENCE FOR SECTION 3 BUSINESS CONCERNS

(a) HABC, its contractors and subcontractors shall direct their efforts to award Section 3 covered contracts, which excludes material and supply contracts, to the greatest extent feasible, to Section 3 business concerns, in the order of priority provided in subsection (b) below:

(b) Efforts shall be directed toward awarding contracts to Section 3 business concerns in the following order or priority:

- (i) Category 1. Business Concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees; or
- (ii) Category 2. Business concerns that are 51 percent or more owned by residents of other HABC housing developments or developments managed by HABC or whose full-time, permanent workforce includes 30 percent of these persons as employees; or
- (iii) Category 3. HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the Section 3 covered assistance is expended; or
- (iv) Category 4. Business concerns that are 51 percent or more owned by Section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent Section 3 residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs b(i) and (b)ii of this section.

II.14.1. Please note that even if a bidder is claiming preference as a Section 3 business concern, the bidder claiming eligibility for Section 3 preference must also submit a Section 3 Compliance Plan, as described in section II.22. You may also contact FH&EO at 410-396-1969 for additional information.

II.15. REFERENCES: The bidder shall list three (3) firms, governmental units, or persons for whom the bidder has previously performed work of the nature requested under this IFB. The bidder shall further execute the authorization for verification of references attached hereto as Attachment 5. HABC reserves the right to contact such persons at any time prior to award and the bidder agrees that HABC may rely on information provided by such persons to determine the bidder's responsibility.

II.16. BID GUARANTEE: [Applicable only if box below is marked.]

☒ All bids must be accompanied by a negotiable bid guarantee which shall not be less than five (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company that meets the requirements set forth in Paragraph II.17 below and licensed to do business in the State of Maryland. Certified checks must be made payable to HABC. Failure to submit a guarantee with the bid shall result in rejection of the bid. Bid guarantees submitted by unsuccessful bidders shall be returned to such bidders as soon as practicable after bid opening.

II.17. ASSURANCES OF COMPLETION: The bid package must include evidence of the bidder's ability to provide any item marked below if awarded the contract. [Applicable only if box(es) below is/are marked.]

☐ Fraud protection, employee dishonesty, and/or fidelity bond coverage in amounts of not less than \$\_\_\_\_\_.

☒ Performance bond in a penal sum of one-hundred percent (100%) of the contract price.

☒ Payment bond in a penal sum of one-hundred percent (100%) of the contract price.

All bonds required in this Paragraph II.17 must be submitted to HABC within ten (10) days after notice of contract award but prior to contract execution. Bonds must be obtained from surety companies acceptable to the U.S. Government and authorized to do business in the State of Maryland. Individual sureties will not be considered. U.S. Department of Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing this contract and only such companies shall be accepted by HABC. Each bond shall clearly state the rate of premium and the total amount of the premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the performance or payment bond shall be on or after the execution date of the contract. Failure of the successful bidder to obtain the required assurance of completion within the time specified, shall render the bidder ineligible for award.

II.18. INSURANCE: The bid package must include evidence of the bidder's ability to provide Worker's Compensation Insurance; Professional Liability (Errors and Omissions) Insurance, if applicable to the services requested hereunder; General Liability Insurance; and Comprehensive Automobile Liability

Insurance coverage, as set forth in Part 3, Paragraph 26 below. 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 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.

II.18.1. Proof of Insurance. Within ten (10) days of the date of the letter of contract award, the successful bidder shall furnish to HABC 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. HABC may, at its sole discretion, immediately cancel the contract award without prior notice to the successful bidder upon any failure to submit any of the required Certificates of Insurance or any other document required under the IFB within established deadlines. Any and all existing agreements between HABC and the successful bidder shall immediately become null and void upon such cancellation without liability to such bidder.

II.19. CONTRACT AWARD: HABC will analyze bids and award a contract to the lowest responsive and responsible bidder offering the lowest unit prices in Attachment 1, and meeting the specifications, giving due consideration to the Preference provided to Section 3 Business Concerns as described below.

II.19.1. Awarding Contracts To Section 3 Business Concerns

Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified and responsible Section 3 business concern with the lowest responsive quotation, if the bid is reasonable, and does not exceed more than the percentages outlined in the table below:

- When the lowest responsive bid is less than \$100,000, and was not submitted by a Section 3 business concern, the award shall be given to the responsible Section 3 business concern of the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 10% higher than the lowest priced bidder that was not a Section 3 business concern.
- When the lowest responsive bid is at least \$100,000, but less than \$200,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 9% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is at least \$200,000, but less than \$300,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 8% higher than the lowest priced bidder that was not a section 3 business concern.

- When the lowest responsive bid is at least \$300,000, but less than \$400,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 7% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is at least \$400,000, but less than \$500,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 6% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is at least \$500,000, but less than \$1,000,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 5% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is at least \$1,000,000, but less than \$2,000,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 4% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is at least \$2,000,000, but less than \$4,000,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 3% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is at least \$4,000,000, but less than \$7,000,000, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 2% higher than the lowest priced bidder that was not a section 3 business concern.
- When the lowest responsive bid is \$7,000,000, or more, and was not submitted by a section 3 business concern, then the award shall be given to the responsible Section 3 business concern with the highest category, (as described in Section II.14 above), that submitted a responsive bid that is not more than 1.5% higher than the lowest priced bidder that was not a section 3 business concern.

If no responsive bid by a section 3 business concern meets the requirements set forth above, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

#### II.19.2. Other Actions Available to HABC In Awarding Contracts

In addition, HABC reserves the right to take any of the following actions without liability to any bidder:

(1) HABC may: (a) reject any and all bids received; (b) waive any minor irregularities or technicalities in bids received; (c) make a single award or multiple awards to more than one (1) bidder for supply of all or any combination of the items delineated in Attachment 1; (d) accept any item or combination of items bid unless precluded elsewhere in the solicitation; (e) amend this solicitation as permitted by applicable law at any time during the solicitation process; or (f) cancel this solicitation in its entirety or any portion thereof at any time during the solicitation process including after award. 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 bidder. If multiple awards are made, the intent shall be to make awards which, at the sole determination of HABC, are in its best interest, based on HABC's needs and requirements. HABC makes no guarantees as to amount of award, if any.

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

II.19.3. UNIT PRICING AND EXTENDED BID PRICES: If this IFB requires submission of unit and extension prices, the bidder shall submit its unit price for each line item indicated, and shall also calculate and submit its extension price for each line item. All extension prices are subject to verification by the Contracting Officer. In the event of a discrepancy between unit and extension prices, the unit price shall be considered the bid. Tasks and usages are estimated. HABC makes no representation or guarantee as to actual tasks to be assigned or to actual usages required.

II.20. FORM OF AWARD: (a) By submission of a bid, the bidder agrees to be bound by the terms and conditions of this IFB and further agrees if it is issued a written notice of award, to be bound by a contract the provisions of which shall be substantially the same terms and conditions of this IFB and the terms and conditions of the successful bid(s) that are acceptable to HABC. Acceptance of the bidder's offer to perform the services specified herein will be made by written notice of award to the successful bidder which shall constitute a binding contract between the parties without further action by either party, unless the solicitation or contract award is otherwise canceled by HABC as provided in this IFB. Bidders 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. Bidders are advised that the contract documents may include any and all terms and conditions required by HUD for a contract of this type and nature.

(b) Bidders are advised that fee, contract award, contract documents, and payment may be subject to HUD approval, and withholding of contract approval by HUD shall immediately nullify the contract without liability by either party to the other, irrespective of whether the contract was executed by any one or both parties thereto. If HABC issued a written Notice-to-proceed to the successful bidder prior to contract nullification, the successful bidder shall be equitably compensated for any work performed and accepted by HABC pursuant to such Notice-to-proceed up to the date of contract nullification.

II.21. TERM OF CONTRACT: The Contractor shall complete all work required under this contract within three-hundred and sixty-five (365) 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.

II.22. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968: The successful bidder 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. This requirement applies to Section 3 and non-Section 3 businesses. (See 24 CFR Part 135, Part 2 Paragraph G and Part 3, Paragraph 15 of this IFB for additional information on Section 3 requirements. Bidders may also contact the HABC Office of Fair Housing and Equal Opportunity (FH&EO) at 410-396-3246 for assistance)

II.22.1. As part of the bidding process, all bidders are required to submit a Section 3 compliance plan in a separate sealed envelope included in the bid package. The bidder's Section 3 compliance plan must include the information requested in Paragraphs II.22.2-II.22.5 below. Failure to provide a Section 3 plan shall render the bid non-responsive.

To assist the Bidder in complying with the Section 3 requirements, HABC encourages the Responders to solicit applicants from the HABC Office of Resident Services, People Accessing Continued Employment Program ("P.A.C.E."); and use other employee recruitment services only if PACE has no qualified referrals that meet the Bidder'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 13).

II.22.2. If the bidder intends to comply with Section 3 by providing employment and/or training opportunities to residents of HABC public housing and/or other Section 3 persons, the Section 3 compliance plan must provide all information regarding any hiring/training the bidder will be conducting including a description of the employment/training duties, work hours, and salaries. Bidders are required to include in their Section 3 compliance plans, their workforce requirements for performing the proposed contract and the number of any additional hiring to be conducted. If additional hiring will not be conducted, the bidder must, to the greatest extent feasible and consistent with all applicable laws, provide training to Section 3 persons.

II.22.3. If the bidder intends to meet Section 3 requirements by subcontracting with Section 3 businesses, the Section 3 compliance plan must provide the names, addresses and telephone numbers of all Section 3 businesses

who will be performing work on this project as well as a description of the work to be performed by such firms and the percentage of the total contract dollar amount that will be awarded to each firm. The bidder must include a letter of intent between the bidder and each Section 3 business with which it will subcontract if awarded the contract. The bidder must submit proof that such firms meet the definition of Section 3 business concern as established by HUD. See 24 C.F.R. Part 135.5 for definitions of Section 3 businesses or contact the FH&EO for additional information.

II.22.4. If the bidder is claiming preference as a Section 3 business concern, the bidder's Section 3 compliance plan must include an explanation for the bidder's claim to be a Section 3 business concern along with proof of the firm's eligibility as a Section 3 business concern. A bidder claiming eligibility for Section 3 preference must also submit a Section 3 Compliance Plan. See 24 C.F.R. Part 135.5 for definitions of Section 3 business concerns or contact FH&EO for additional information.

II.22.5. In the event that the bidder determines that it is not feasible to comply with Section 3, the bidder must state with specificity, in the bidder's Section 3 compliance plan, the reasons why the bidder cannot comply with Section 3. Any bidder that has determined that it is not feasible to comply with Section 3, assumes the risk that its bid will be eliminated as non-responsive.

**II.23. SUBCONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:**

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.
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. 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.

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.
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.

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).

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.
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.
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.
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.

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.

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.

## II.24 SERVICE OF PROTEST:

### II.24.1. Definitions: As used in this provision:

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

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

II.24.2. Filing of Protest: An interested party, as hereinabove described, must serve a notice of protest relevant to this IFB concerning any allowable matter by which such person may be aggrieved, if any, in accordance with the administrative remedy in HABC's Procedures for Procurement and Contracting as follows:

(a) Submission: The interested party shall file a written complaint with the Contracting Officer, who shall be the Executive Director of HABC or his/her designee, in such time as to be received by HABC prior to the due date for receipt of proposals or if the protest is against the contract award, within ten (10) days after such party's receipt of the notice of contract award.

(b) Place of Filing: The complaint shall be served on the Contracting Officer at: Housing Authority of Baltimore City, Office of the Executive Director, 417 East Fayette Street, Room 1346, Baltimore, Maryland 21201.

(c) Content of Complaint: The complaint shall contain, at the least, the following information:

- (i) The name and address of the party and the HABC solicitation number;
- (ii) A statement of when the dispute arose;
- (iii) A statement of the reasons for the dispute and the facts that form the basis of the complaint;
- (iv) Supporting exhibits, evidence, or documents to substantiate any arguments; and
- (v) A statement of the type of relief sought.

(d) Resolution: All protests shall be resolved in accordance with HABC protest policy and procedures, copies of which are maintained at HABC. The Contracting Officer may request such other information pertaining to the matter as deemed appropriate. The Contracting Officer shall conduct such investigation

as appropriate and notify the bidder of the decision in writing within a reasonable time. Nothing herein stated shall be construed as to require the Contracting Officer to delay award of a contract pending the resolution of a protest.

II.25. SUPPLEMENTAL CONDITION: HABC reserves the right to delete any scheduled item and/or reduce or increase the quantity of any scheduled item as deemed necessary by HABC. All matters and issues related to this IFB shall be governed by the procurement principles set forth in the United States Department of Housing and Urban Development (hereinafter referred to as "HUD") handbook titled Handbook on Procurement for Public and Indian Housing Authorities, Handbook 7460.8, REV-2, (2/2007); and the Statement on Procurement Policy for the Housing Authority of Baltimore City.

### III. SPECIAL CONDITIONS AND INSTRUCTIONS.

III.1. Frequency and Locations of Deliveries: To be determined solely by HABC.

III.2. Method of Purchasing: HABC reserves the right to issue a blanket purchase order during the term of this contract. No purchase order can be issued until such time as the successful Bidder has been formally awarded the contract and completely executed all necessary contract documents. All purchase orders will incorporate the contract terms and conditions of this IFB and shall state the following:

- a. Name and location of using facility
- b. Type of material to be supplied
- c. Invoicing instructions
- d. Maximum price

III.3. Quantities: Any quantities provided herein are estimated, and are given for information and bidding purposes. HABC makes no guarantees as to any minimum purchase.

III.4. Bid Price: All costs necessary and incidental to furnishing the services requested in this IFB must be reflected in the Bidder's unit price bid as shown on Attachment 1, unless otherwise directed on Attachment 1. Prices shall remain in effect for any renewal period if HABC exercises its option to renew. The contractor shall pass through to HABC any and all discounts, mark-downs, price-cuts, rebates, concessions, and fee/tax waivers received by the contractor in connection with the proposed contract during the contract term and any renewal(s) thereof. The contractor agrees to amend the contract price or fees charged by the contract to reflect the reduction resulting from such discounts, mark-downs, price-cuts, rebates, concessions, and fee/tax waivers.

III.5.1. Caveat: Prospective bidders are advised as follows:

a. Any manufacturer's name or brand name may be specified in this IFB to indicate the level of quality desired and not to limit competition. Bids will be considered on other brands as "or equal" when the bidder indicates clearly the product (Brand and Model Number) which is being offered. A sample or sufficient data in detail to enable a proper comparison to be made with the particular material specified shall be included. The determination of the acceptability of an equivalent product will be made by HABC, considering equality of design, construction and function.

b. No bidder will be allowed to offer more than one price on each item even though such bidder may feel that it has two or more types that will meet specifications. If said bidder should submit more than one price on any item, all prices for that item will be rejected at the discretion of HABC.

c. To better insure fair competition and to permit a determination of the lowest responsive and responsible bidder, bids may be rejected if they show any irregularities, conditions, non-conformities or are unbalanced.

d. All deliveries under the contract shall conform in all respects with specifications, descriptions, samples and/or data as submitted and accepted as a basis for the award.

**[End of Part I]**

## **PART 2-REPRESENTATIONS AND CERTIFICATIONS OF BIDDERS**

(NOTE: This Section to be completed by the bidder and included in the bid package)

As used herein, the word "bidder" refers to bidders in a sealed bid solicitation and responders or offerors in a negotiated solicitation including requests for proposals and requests for qualifications. The term "IFB" refers to invitations for bids, requests for proposals, and requests for qualifications. "Bid" refers to bids submitted in response to a sealed bid solicitation and proposals, offers or responses submitted pursuant to a negotiated solicitation. If the bidder deletes or modifies any part of the certifications required hereunder, the bidder must furnish with its proposal a signed statement setting forth in detail the circumstances of the deletion or modification.

### **A. Certificate of Independent Price Determination**

#### **1. The bidder certifies that:**

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

b. The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before: (i) 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

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

#### **2. Each signature on the bid is considered to be a certification by the signatory that the signatory:**

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

b. Has been authorized, in writing, to act as agent for the principals listed below in certifying, and does hereby certify that those principals have not participated, and will not participate in any action contrary to subparagraphs 1.a through 1.c above.

---

*[Insert full name and job title of person(s) in the bidder's organization responsible for determining the prices offered in this bid]*

### **B. Affidavit of Non-collusion**

1. Each bidder shall execute an affidavit, as provided in Attachment 2 to this IFB, to the effect that the bidder has not colluded with any other person,

firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with the bid, such successful bidder must submit it within three (3) business days of bid opening or within three (3) days of notification from HABC in the case of negotiated solicitations. Failure to submit the affidavit by that date may render the bid or bid non-responsive. No contract award will be made without a properly executed affidavit.

2. The bidder represents that a fully executed "Non-collusive Affidavit" [ ] is, [ ] is not included with the bid.

C. Contingent Fee Representation and Agreement

1. Definitions. As used in this provision:

"Bona fide employee" means a person, employed by an bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence. "Improper influence" means any influence that induces or tends to induce a HABC employee or officer to give consideration or to act regarding a HABC contract on any basis other than the merits of the matter.

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

a. [ ] has, [ ] has not employed or retained any person or company to solicit or obtain the contract proposed under this solicitation; and

b. [ ] 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 the contract proposed under this solicitation.

3. If the answer to either Paragraph C.2.a or Paragraph C.2.b above is affirmative, the bidder shall make an immediate and full written disclosure to the HABC Contracting Officer.

4. Any misrepresentation by the bidder shall give HABC the right to (1) terminate the contract; (2) at its discretion, deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy authorized specifically in the contract or by law.

D. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

1. The definitions and prohibitions contained in Section 1352 of Title 31, United States Code, are hereby incorporated by reference in Paragraph 2 of this certification.

2. The bidder, by signing its bid, hereby certifies to the best of the bidder's knowledge and belief that:

a. No Federal appropriated or other funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress,

or an employee of a Member of Congress on the bidder's behalf in connection with the awarding of a contract resulting from this solicitation;

b. If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on the bidder's behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB Standard Form LLL, "Disclosure of Lobbying Activities;" and

c. The bidder will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards shall certify and disclose accordingly.

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

#### E. Conflict of Interest Certification

1. Each bidder shall make a certification that to the best of its knowledge and belief and except as otherwise disclosed, such bidder does not have any conflicts of interest as is defined in Attachment 3 to the IFB. If the successful bidder did not submit the affidavit with the bid, such successful bidder must submit it within three (3) business days of bid opening or within three days of notification from HABC in the case of negotiated solicitations. Failure to submit the certification by that date may render the bid non-responsive. No contract award will be made without a properly executed certification.

2. The bidder represents that a fully executed "Conflicts of Interest Certification," Attachment 3 [ ] is, [ ] is not included with the bid.

#### F. Bidder's Certification of Eligibility

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

a. Be awarded contracts by any agency of the United States Government, HUD, or the State of Maryland; or,

b. Participate in HUD programs pursuant to 24 CFR Part 24.

2. To that effect, bidders shall submit a certification that the firm and its principals are not debarred, suspended or otherwise prohibited from professional practice by a Federal, state or local agency or excluded from participation in this contract, by completing and submitting Attachment 4 hereto, titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower-tier Covered Transactions." The certification in Attachment 4 to the IFB and Paragraph 1 above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may

be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

3. The bidder represents that a fully executed "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower-tier Covered Transactions," Attachment 4 [ ] is, [ ] is not included with the bid.

G. Resident-owned Business and Section 3 Business Concern Representation

1. The bidder represents and certifies as part of its bid that it: [ ] is, [ ] is not a resident-owned business concern.

a. A resident-owned business is defined as any business concern which is owned and controlled by public housing residents. (The term "Resident-owned Business" includes sole proprietorships.) For these purposes, "owned and controlled" means a business:

(i) Which is at least fifty-one percent (51%) owned by one or more public housing residents; and

(ii) The management and daily business operations of which are controlled by one or more such individuals.

b. All securities which constitute ownership or control of a corporation for purposes of establishing the business as a resident-owned business shall be held directly by the public housing residents. No securities held in trust, or by any guardian for a minor, shall be considered as held by the public housing resident in determining the ownership or control of a corporation.

2. The bidder represents and certifies as part of its bid that it: [ ] is, [ ] is not a Section 3 business concern.

a. "Section 3" means Section 3 of the Housing and Urban Development Act of 1968.

b. A Section 3 business concern means a business concern:

(i) That is 51 percent (51%) or more owned by Section 3 residents; or

(ii) The permanent, full-time employees of which include persons, at least 30 percent (30%) of whom are currently Section 3 residents, or within three (3) years of the date of first employment with the business concern were Section 3 residents; or

(iii) That provides evidence of a commitment to subcontract in excess of 25 percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs G.2.b.(i) or G.2.b.(ii) above.

c. See Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. Section 1701u, and its implementing regulations at 24 C.F.R. Part 135 et. seq. for additional information.

H. Certification of Non-segregated Facilities

1. The bidder's attention is called to Part 3, Paragraph 28 of the IFB, titled "Non Discrimination and Equal Opportunity Requirements."

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

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

4. The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

a. Obtain identical certifications from the proposed subcontractors;

b. Retain the certifications in its files; and

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

"NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES.

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

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

I. Clean Air and Water Certification (for contracts over \$25,000)

1. The bidder certifies that:

a. Any facility to be used in the performance of this contract[ ] is, [ ] is not listed on the Environmental Protection Agency List of Violating Facilities or on any other list of violating facilities by any other governing body having jurisdiction over such facility:

b. The bidder will immediately notify the HABC Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, or any other governing body

having jurisdiction over such facility, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities or such other lists; and,

c. The bidder will include a certification substantially the same as this certification, including this Paragraph 3, in every nonexempt subcontract.

J. MINIMUM BID ACCEPTANCE PERIOD:

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

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

3. For this solicitation, HABC requires a minimum bid acceptance period of one hundred and eighty (180) days calendar days.

4. In the space provided immediately below, bidders may specify a longer acceptance period than HABC's minimum requirement. The bidder allows the following acceptance period: \_\_\_\_\_ calendar days.

5. A bid allowing less than HABC's minimum acceptance period for this solicitation will be rejected.

6. The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (a) the acceptance period stated in paragraph (3) above or (b) any longer acceptance period stated in paragraph (4) above.

K. Bidder's Signature:

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

\_\_\_\_\_  
(Name and Address of Bidder)

\_\_\_\_\_  
(Name and Title of Authorized Official of Bidder)

\_\_\_\_\_  
(Signature of Authorized Official of Bidder)      Date

**[END OF PART 2]**

### **PART 3-CONTRACT TERMS AND CONDITIONS**

1. STATEMENT OF WORK: The contractor shall furnish all labor, materials, equipment, warranties, guarantees, and transportation necessary for timely supply and delivery to HABC of the goods 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. The contract documents shall consist of: (a) a purchase order/master contract document; (b) invitation for bids Number B-1901-19 and any and all attachments, exhibits, appendices, amendments and addenda thereto (hereinafter referred to collectively as the "IFB"); and (c) the contractor's bid submitted in response to IFB Number B-1901-19, including any and all exhibits, attachments, amendments and addenda thereto made prior to award and accepted by HABC (hereinafter referred to collectively as the "Bid"). Provided, however, that the contract shall not include: (a) any terms or conditions contained in the bid which may be contradictory to any term or condition of the contract cover page/master contract document or the IFB; (b) any correspondence between HABC and the contractor which may be contradictory to the purchase order/master contract document or the IFB, or (c) any term or condition in the Bid 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.

1.1. 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 contractor 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 or conflict, if HABC's determination of such conflict or ambiguity is not a reasonable determination.

1.2. The contractor shall be responsible for the professional quality and technical accuracy of all services required and all work provided. 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.

2. CONTRACTOR'S CERTIFICATION OF UNDERSTANDING OF WORK: By submitting a bid the contractor 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 contractor assures that it will utilize such competence, knowledge, expertise, capabilities, skills and qualifications to render all necessary services. The contractor shall adhere to such standards until final acceptance of work is made by HABC hereunder.

2.1. The contractor represents, warrants and certifies that the contractor, 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.

2.2. The contractor represents, warrants and certifies that it understands that HABC is not capable of independently verifying all representations made by the

contractor as to its expertise, and knowledge of acceptable industry standards and further understands that HABC relies upon its expertise as represented.

2.3. The contractor 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 contractor shall be responsible for all damages to persons or property that occur as a result of the fault or negligence of the contractor, 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 contractor shall hold and save the HABC, 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.

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

2.5. The contractor'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 contractor will then be released from further obligation except as required by the guaranty, if any, except that the contractor remains liable for any defects or hazardous conditions caused or created by the contractor including those that do not immediately manifest upon completion of contract work.

2.6. Nothing stated in this Paragraph 2 or Paragraph 1 above shall serve to increase the maximum cost for the contract.

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

3.1. MONTHLY STATEMENT/INVOICE: As a condition precedent to any payment to the contractor hereunder, the contractor 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 contractor; the invoice date; the contract 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 contractor hereby agrees that HUD or any funding source for this project may require its approval of such statement, prior to any payment thereunder. The contractor agrees to include its Federal Tax Identification Number in all invoices submitted to HABC. HABC may withhold payment for failure to comply with this provision. Submit invoices to: HABC.AccountsPayable@habc.org.

3.2. METHOD OF PAYMENT: Payments by HABC shall be made to the contractor within thirty (30) days after receipt of each approved invoice from the contractor less \_\_\_\_\_ ( ) percent retainage. [Retainage applicable only if percentage is provided]

Payments will be made electronically to the contractor and not by check. No interest shall accrue on any unpaid balance due.

3.3. FINAL PAYMENT: HABC shall make the final payment due the contractor under this contract after (1) completion and acceptance of all work; and (2) presentation of release of all claims against HABC 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.

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

5. ACCOUNTING: The contractor shall maintain a separate record of the contractor'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.

6. REVIEW AND ACCEPTANCE OF SERVICES: The contractor shall maintain an adequate review or inspection system and perform such reviews or inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to HABC review at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

6.1. HABC review of work are for the sole benefit of HABC and do not: (a) relieve the contractor of responsibility for providing adequate quality control measures; (b) relieve the contractor of responsibility for loss or damage of the material before acceptance; (c) constitute or imply acceptance; or, (d) affect the continuing rights of HABC after acceptance of the completed work.

6.2. HABC has the right to review and/or review or inspect all supplies, work, and services required under this contract to the extent practicable at all times and places during the term of the contract. HABC shall perform reviews or inspections in a manner that will not unduly delay the work. If any of the supplies or services do not conform with contract requirements, HABC may require the contractor to perform the work again in conformity with contract requirements, at no increase in the contract price. When deficiencies cannot be corrected by re-performance, HABC may require the contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of the work performed.

6.3. If the contractor fails to perform promptly the required work or to take the necessary action to ensure future performance of the contract in conformity with contract requirements, the contractor being found in default. In such event, HABC may, by contract or otherwise, perform the work itself and charge the contractor any cost incurred that is directly related to the performance of the work or terminate the contract for default. Any non-conformance to, or violation of the contract terms and/or applicable Federal, State or local regulations may also result in the contractor being placed on a list of non-responsible contractors.

7. EMPLOYEES: All personnel, staff, employees, consultants and subcontractors of the contractor performing under the contract shall be employees and/or subcontractors of the contractor and shall neither be employees, subcontractors nor agents of HABC. The contractor's employees shall be hired, paid, generally supervised, and discharged by the contractor. The contractor 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 contractor shall indemnify and hold harmless, HABC in every respect against same.

7.1. The contractor warrants that any and all employees, subcontractors, partners and consultants of the contractor 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.

7.2. Any and all contractor'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 contractor 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 contractor 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.

7.3. If this contract requires the contractor to provide any service to youth and children, it shall be the sole duty and responsibility of the contractor 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 contractor 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 contractor gave notice to HABC prior to or after such hiring and the contractor shall indemnify and hold HABC harmless in every respect against same.

8. RELATIONSHIP OF PARTIES: The parties agree that neither the contract nor rendering of services under the contract shall be construed to create any relationship of employment, agency, partnership or joint venture between HABC and the contractor and the contractor serves as an independent contractor. Neither HABC nor the contractor shall have any right or authority to assume or create any obligation on behalf of the other.

9. SUPERVISION: For performance of services under the contract the contractor 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.

10. STANDARDS OF CONDUCT: The contractor 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 contractor 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.

10.1. If the contractor has any contact or dealings with HABC residents or other residents of the community during the performance of this contract, the contractor 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 contractor, its employees, subcontractors and agents shall not: (a) engage in conduct that is harassing, abusive, verbally or physically threatening, or discourteous to such residents; (b) engage in conduct towards, with or against any resident that is criminal or generally considered by the public as immoral, improper or inappropriate; and (c) use their position or this contract to gain any benefit from or advantage against any resident.

10.2. Violation of any part of this Paragraph 10 shall be grounds for immediate termination of the contract by HABC without liability to the contractor.

11. PERFORMANCE EVALUATION MEETINGS: The contractor understands that HABC expects, at a minimum, to meet any and all stated objectives, goals and requirements of the contract, therefore, the contractor 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 contractor. To that end, the contractor shall promptly attend and participate in regular consultation meetings as determined by HABC. The assigned representatives of the contractor 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 contractor 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 contractor, its subcontractors, employee or agents for attending such meetings. The contractor 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.

12. REMOVAL FROM ASSIGNMENT: Neither the contractor, 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 contractor. In lieu of termination, HABC may, at its sole discretion, request the contractor 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

contractor shall, upon request by HABC, promptly provide, qualified substitute personnel at no additional cost to HABC to complete the contract.

13. DELAYS AND EXTENSIONS OF TIME: The contractor shall agree to perform the contract continuously, faithfully and diligently. No charges or claims for damages shall be made by the contractor against HABC for any delays or hindrances, regardless of cause, in the performance of services under the contract, except that the contractor 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.

13.1. 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 contractor, 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 contractor.

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

15. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968: The contractor shall 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. In accordance with Section 3, the contractor shall require 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 contractor shall insert the following clause (referred to as Section 3 clause) in any contract resulting from a Section 3 covered contract, including this contract:

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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.*

*F. Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.*

16. CONTRACT MODIFICATIONS: Only the HABC Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.

16.1. The Contracting Officer may modify the contract unilaterally - (1) pursuant to a specific authorization stated in a contract clause (e.g., the Clause 17 below, Changes); or (2) for administrative matters which do not change the rights or responsibilities of the parties (e.g., change in HABC address). All other contract modifications shall be in the form of supplemental agreements signed by the contractor and the contracting Officer.

17. CHANGES: 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:

- (a) In the statement of work or specifications (including drawings and designs);
- (b) In the method or manner of performance of the work;
- (c) HABC-furnished facilities, equipment, materials, services, or site;  
or,
- (d) Directing the acceleration in the performance of the work.

17.1. Any other written order or oral order (which, as used in this Paragraph 17.1, includes direction, instruction, interpretation, or determination) from the contracting Officer that causes a change shall be treated as a change order under

this cause; provided, that the contractor gives the contracting Officer written notice stating (a) the date, circumstances and source of the order and (2) that the contractor regards the order as a change order.

17.2. Except as provided in this Clause, no order, statement or conduct of the contracting Officer or any other person shall be treated as a change under this Clause or entitle the contractor to an equitable adjustment.

17.3. If any change under this Clause causes an increase or decrease in the contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no bid for any change under Paragraph 17.1. above shall be allowed for any costs incurred more than thirty (30) days before the contractor gives written notice as required. In the case of defective specifications for which HABC is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the contractor in attempting to comply with the defective specifications.

17.4. The contractor must submit any proposal under this Clause to the contracting Officer within thirty (30) days after (a) receipt of a written change order under Paragraph 17 above, or (b) the furnishing of a written notice under Paragraph 17.1 above. The proposal shall include 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 17.1. above. No proposal by the contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

17.5. The contractor's written proposal for equitable adjustment shall be submitted in the following form:

a. Proposals totaling \$5,000 or less shall be submitted in the form of a lump sum proposal with supporting information to clearly relate elements of cost with specific items of work involved to the satisfaction of the Contracting Officer.

b. For proposals in excess of \$5,000, the claim 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:

(i) Direct Costs

1. Materials;
2. Transportation and delivery costs associated with materials;
3. Labor breakdowns by hours or unit costs (identified with specific work to be performed);
4. Costs of preparation and/or revision to shop drawings resulting from the change;
5. Worker's Compensation and Public Liability Insurance;
6. Employment taxes under FICA and FUTA; and
7. Bond Costs - when size of change warrants revision.

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

(iii) 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.

17.6. 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 or the requirements of any funding source for this project. 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.

17.7. 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.

17.8. The contracting Officer shall act on proposals within thirty (30) days after their receipt.

17.9. Failure to reach an agreement on any proposal shall be a dispute under the Dispute clause, Paragraph 19 below. Nothing in this clause, however, shall excuse the contractor from proceeding with the contract as changed pending final resolution of the dispute.

17.10. Except in an emergency endangering life or property, no change shall be made by the contractor without a prior written order from the contracting Officer.

18. SUSPENSION OF WORK: HABC unilaterally may order the contractor 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 contractor except that the contractor 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.

#### 19. DISPUTES

19.1. All claims by the contractor shall be made in writing and submitted to the contracting Officer, who shall be the Executive Director of HABC or the Executive Director's designee, no later than ten (10) calendar days after the contractor knows of the grounds for the dispute. All contract claims shall include, at a minimum: (i) the nature and scope of the claim, including extra costs sought, and (ii) a request for a final decision on the claim. A claim by HABC against the contractor shall be subject to a written decision by the contracting Officer.

19.2. The contracting Officer shall, with reasonable promptness, but not to exceed sixty (60) days, render a decision concerning any claim hereunder. Unless the contractor, within thirty (30) days after receipt of the contracting Officer's decision, shall notify the contracting Officer in writing that it takes exception to such decision, the decision shall be final and conclusive.

19.3. Provided the contractor has (a) given the notice within the time stated in Paragraph 19.2 above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against HABC not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the contractor has had a reasonable time to respond to a written request by HABC that it shall submit a final voucher and release, whichever is earlier, then HABC's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.

19.4. The contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the contracting Officer.

20. SUBCONTRACTING AND ASSIGNMENT: The contractor shall not subcontract any portion of the services required under the contract without obtaining prior written approval from HABC, nor may the contractor assign the contract or any of its rights or obligations hereunder without prior written approval from HABC.

20.1. If the contractor has identified any subcontractor prior to the execution of this contract, the contractor 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 assignment 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.

20.2. The contractor 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 contractor. HABC shall not be responsible for the fulfillment of the contractor's obligation to subcontractors or assignees in the event of any subcontract or assignment of the contract. The contractor shall ensure that all subcontracts performing on this contract are paid timely.

20.3. HABC at its sole discretion may void the contract upon any attempted or purported assignment of the contract without HABC approval or upon the dissolution or insolvency of, or filing of a voluntary or involuntary bankruptcy petition by the contractor.

21. CONSULTANTS: The contractor 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.

22. DEFAULT: 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, HABC 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 HABC 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 HABC in completing the work.

22.1. The contractor's right to proceed shall not be terminated or the contractor charged with damages under this clause if-

(a) 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 HABC or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with HABC, (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 time arising from unforeseeable causes beyond the control and without the fault or negligence of both the contractor and the subcontractors or suppliers; and

(b) The contractor, within ten (10) days 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 Paragraph 19, Disputes, hereinabove.

22.2. 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 the convenience of HABC.

23. LIQUIDATED DAMAGES: [Applicable only if amount is provided]

23.1. If the contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the Paragraph 22, Default, of this contract, the contractor shall pay to HABC as liquidated damages, the sum of \$ 500.00 for each day of delay. To the extent that the contractor's delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due HABC. The contractor remains liable for damages caused other than by delay.

23.2. If HABC 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 HABC in completing the work.

23.3. If HABC does not terminate the contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

24. TERMINATION FOR CAUSE: If the contractor fails to properly and timely fulfill its obligations under the contract, including but not limited to the contractor's MBE and Section 3 plan, fails to prosecute the matters diligently, or otherwise violates any provision of the contract or applicable Federal, State or local statutes, regulations, or ordinances, HABC shall have the right, and may exercise such right to terminate the contract immediately. If HABC determines that the contractor's default is curable, HABC shall give the contractor written notice specifying the acts or omissions constituting such default prior to

terminating the contract. If the contractor has not cured such default within ten (10) days from the date of such notice HABC may terminate the contract by providing written notice to the contractor not less than five (5) days after expiration of the ten (10) day period to cure the default. The notice to the contractor shall specify the acts or omissions of the contractor relied upon by HABC as cause for such termination.

24.1. Upon such termination of the contract, the entire contract file(s) maintained by the contractor 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. HABC shall pay the contractor fair and equitable compensation for satisfactory performance prior to receipt by the contractor of the notice of termination, less the amount of damages suffered by HABC as a result of such default. If HABC sustains any legally allowable damages from the contractor's default greater than any amount payable to it, the contractor will receive no compensation from HABC and shall remain liable to HABC for such damages after termination of the contract. HABC shall invoke all available legal remedies to collect damages resulting from the contractor's default.

24.2. In addition to the foregoing, any such termination of the contract shall also be subject to all terms and conditions required or recommended by the funding source for this project for contracts of this type and nature.

25. 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 contractor all reasonable costs directly relating to the contract that the contractor 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 contractor 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 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.

25.1. Upon such termination of the contract, the entire contract file(s) maintained by the contractor 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.

25.2. In addition to the foregoing, any such termination of the contract shall also be subject to all terms and conditions required or recommended by the funding source for this project for contracts of this type and nature.

26. INSURANCE: The contractor shall maintain for the entire duration of the contract and until formally terminated by HABC, the required insurance coverage as set forth in this Part 3, Section 26. 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.

#### 26.1.2. Coverage Requirements.

(a) Worker's Compensation Insurance - The contractor 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.

(b) General Liability Insurance - The contractor 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.

(c) Automobile Liability Insurance - The contractor 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.

(d) Professional Liability (Errors and Omissions) Insurance - The contractor 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 contractor or by any employees, agents or representatives of the contractor (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.

#### 26.2. Proof of Insurance:

26.2.1. Contract Start: The contractor including subcontractors shall furnish to HABC 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 contractor including subcontractors must also notify HABC within 30 days prior to any termination of the required insurance. Any lapse in insurance coverage is cause for the immediate termination of this contract.

26.2.2. During Contract Term: From time to time during the contract term HABC may require, and the contractor 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 contractor 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.

26.3. No Insurance Limit on Indemnification Requirements: The contractor 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 contractor or any of the officers, employees or agents of the contractor, relating to the operations or activities required under this IFB or the proposed 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 solicitation or 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.

26.4. 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.

27. INDEMNIFICATION:

27.1. The contractor shall, to the 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 contractor, its employees, agents, subcontractors or assignees, in connection with the contract and services under this IFB. Additionally, the contractor shall indemnify, save, defend, and hold harmless HABC, its divisions, departments, officials, employees and agents from and against any and all liability, claims, fines, penalties, damages, interruptions in services, deliverables and failures attributable to, arising from, or caused by the contractor's failure to modify, change, enhance, correct, realign or update any products, commodities or services for, or otherwise fail to, comply with Year 2000 computer related issues in providing services under the contract. HABC has no obligation or duty to defend, and shall not defend, provide legal counsel to, or pay for legal services procured by the contractor, its subcontractors, consultants, employees, and agents in the event that a suit, claim or action of any kind is brought against the contractor, 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 IFB.

27.2. 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 contractor, its subcontractors, assignees, employees, consultants, and agents as a result of, or relating to their actions or conduct in connection with the contract.

27.3. The contractor shall immediately notify HABC of any claim or suit made or filed against the contractor, 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.

28. NON-DISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS: HABC covenants and agrees that it is an equal opportunity employer and does not discriminate against any person on the basis of sex, race, religion, color, age, marital status, national origin, handicap, disability or military status.

28.1. For all hiring or employment made possible by, or resulting from the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin or disability. The contractor shall take affirmative steps to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin or disability.

28.2. The contractor further agrees to include the preceding statement in Paragraph 28.1, in any subcontract resulting from the contract and to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of the preceding statement. The contractor shall comply, 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 contractor 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 contractor agrees that in connection with the performance of services under the contract, the contractor 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.

29. PROHIBITIONS AGAINST LIENS: The contractor is prohibited from placing a lien on HABC property. This prohibition shall apply to all subcontractors performing on this contract.

30. 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.

31. CERTIFICATE AND RELEASE: Prior to final payment under the contract or prior to settlement upon expiration of the contract, and as a condition precedent thereto, the contractor shall execute and deliver to HABC a certificate and release in a form acceptable to HABC, containing a release of all claims against HABC by the contractor under the contract, other than such claims, if any, as may be specifically excepted by the contractor in stated amounts and for reasons set forth therein.

32. OWNERSHIP OF DOCUMENTS: Upon the termination of the contract, the rights of the parties in data and copyrights shall be in accordance with the provisions of Paragraph 42 below, Rights in Data and Copyright. All documents and materials developed, prepared and furnished by the contractor under the direction of HABC specifically for the contract shall become the property of HABC upon their approval in writing by HABC, or upon the prior termination of the contractor services hereunder, and the contractor shall have no claim for further engagement or additional compensation as a result of exercise by HABC of its full rights of ownership of these documents and materials. The contractor shall retain a record copy for its own files.

33. PURCHASE AND TREATMENT OF ASSETS: If the contract prescribes that the contractor 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 contractor for the performance of the contract, or property to be acquired directly by the contractor with funds paid under the contract, for the performance of the contract.

33.1. Title to all property furnished to the contractor by HABC shall remain with HABC. Title to all property acquired by the contractor shall immediately vest in HABC upon purchase of such property.

33.2. The property shall be used solely for the performance of the contract unless otherwise directed by HABC. The contractor 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.

33.3. The contractor 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 contractor must be clearly identified and labeled as the property of HABC. The contractor must contact HABC to obtain such labels. The contractor 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 contractor must make the property available for review or inspection by the contracting Officer or his/her designee(s) without prior notice to the contractor, irrespective of whether such property is in the actual possession of the contractor. The contractor shall not dispose of such property without prior written approval of HABC.

33.4. The contractor is liable for any loss of or damage to the property including any such property furnished by the contractor to its subcontractors. The contractor shall maintain adequate insurance coverage on the property and shall safely maintain, use and protect the property. If the contractor 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.

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

34. RECORDS AND REPORTS: The contractor 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.

35. DOCUMENT RETENTION AND INSPECTION: The contractor shall retain and maintain all books, records, files, ledgers, and all other documents relevant to the contract, for a period of three (3) years after the date of final payment and resolution of all pending matters connected to the contract. All records, books and accounts maintained by the contractor in connection with the contract will be subject to examination at reasonable hours by authorized representatives of HABC, HUD or any funding source for this project. The contractor hereby agrees to make available its financial records related to the contract for inspection and/or auditing by HABC, HUD or any funding source for this project. This provision is applicable to any and all subcontractors performing on the contract. The contractor agrees to include the provisions of this Paragraph 35 in all such subcontracts.

35.1. The contractor further agrees that HABC may require that it provide a full and expeditious accounting to HABC of its use of funds related to the contract. Upon request by HABC, HUD or any funding source for this project to inspect, audit, review or examine records, or obtain an accounting of the contractor's use of funds related to the contract, the contractor agrees to provide all documents, records, accounting books, and all other information related to the contract to HABC. Failure of the contractor to comply with these provisions constitutes a material breach of the contract which may result in withholding of funds or termination of the contract by HABC.

36. DISCLOSURE OF INFORMATION: The contractor agrees that all reports, records and conclusions resulting from the work performed under the contract shall become immediately the property of, and for the confidential use and information of HABC. The contractor hereby acknowledges that it shall not use or cause to be used any property, including but not limited to correspondence, records, reports, and audio or video recordings of HABC 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 contractor further acknowledges that it shall not divulge to others or use for its benefit or the benefit of any person, firm, corporation or other entity, other than HABC and its authorized representatives, any confidential, privileged or proprietary information obtained during the term of the contract.

37. ADVERTISING LIMITATION: The contractor agrees not to use the award of the contract as a part of any commercial advertising without the prior written permission of HABC.

38. COMPLIANCE WITH APPLICABLE LAWS: The contractor 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 contractor 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 contractor 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.

39. 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 her designee. All matters relating to the administration and performance of the contract shall be referred to the Contracting Officer for determination. The contractor shall submit all information required under the contract to the contracting Officer at 417 East Fayette Street, 13<sup>th</sup> floor, Baltimore, Maryland 21202, unless otherwise designated in writing by HABC. The contracting Officer shall have full responsibility for monitoring all contract activities and the contractor's progress hereunder.

40. CONTINGENT FEE PROHIBITION: The contractor, 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 contractor, 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 contractor the full amount of such fee or other consideration.

41. COST CERTIFICATION: By submitting fees, costs, prices, expenses or such other billing information, the contractor 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.

42. RIGHTS IN DATA AND COPYRIGHTS: HABC shall have sole title to and unlimited rights in data, devices, programs or applications first produced in the performance of this contract including data, devices, programs or applications that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and in such other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.

42.1. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, or works of authorship developed or created by contractor or its personnel (including consultants assigned to this project) during the course of performing HABC's work (collectively, the "Work Product") shall belong exclusively to HABC and shall, to the extent possible, be considered a work made for hire for HABC within the meaning of Title 17 of the United States Code. The contractor automatically assigns on behalf of the contractor and its personnel, at the time of creation of the Work Product and without any requirement of further consideration or execution of additional documents, any right, title, or interest it or they may have or be entitled to claim in such Work Product, including any copyrights or other intellectual property rights pertaining thereto. Upon request of HABC, contractor shall take such further actions, and shall cause its personnel to take such further actions, including execution and delivery of instruments of conveyance, as may be appropriate to give full and proper effect to such assignment.

42.2. The contractor shall not have the right to use, release to others, reproduce, distribute, or publish any data first produced by the contractor in the performance of this contract, without prior written HABC authorization. The contractor shall protect such data, devices, programs or applications from unauthorized disclosure.

43. 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 contractor, the contractor shall be responsible for recreating such lost data or records irrespective of the cost, and such cost shall be borne by the contractor.

44. PATENTS AND ROYALTIES: The contractor 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 contractor. If the contractor 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, devise, or materials involved in the work.

45. PERMITS AND LICENSES: The contractor 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 contractor 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.

46. 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) hours' notice in writing to the contractor. 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 contractor 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.

47. 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 contractor 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 contractor 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.

48. 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 contractor 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.

48.1. The contractor agrees:

(a)

(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.

(b) To insert the substance of this clause in all nonexempt subcontracts.

49. ENVIRONMENTAL PROTECTION: The contractor 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 IFB. The contractor 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.

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

51. 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.

52. 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.

53. 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.)

Address of the contractor:

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

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

Address of 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

54. 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.

55. ENERGY EFFICIENCY: The contractor shall comply with all 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, if applicable.

56. CONFLICT OF INTEREST: In accordance with HUD regulations, 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:

(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.

56.1. 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).

56.2. 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.

56.3. As provided in the Annotated Code of Maryland, Housing and Community Development Article, Section 12-101, 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.

56.4. 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.

56.5. Any member of these classes of persons must disclose the member's interest or prospective interest to HABC and HUD.

56.6. Contractor has certified in its bid 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 contractor.

56.7. Contractor 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 contractor's organizational, financial, contractual or other interests may: (i) result in an unfair competitive advantage to contractor; or (ii) impair the contractor's objectivity in performing the contract work.

56.8. Contractor understands and agrees that HABC has relied upon these certifications to make this contract award. Contractor 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 contractor 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.

56.9. Contractor 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.

56.10. During the term of the contract, 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, if the services rendered by the contractor 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 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 interest 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 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 56.10; 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 56.10. Failure of the Contractor to comply with the requirements of this subsection 56.10, 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.

57. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION: Contractor has certified that neither contractor 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. Contractor understands and agrees that if it is later determined that contractor knowingly rendered an erroneous certification, HABC may terminate the contract without liability to the contractor, and in addition to other remedies available to the Federal Government, HUD may pursue available remedies, including suspension and/or debarment.

57.1. Contractor agrees to provide immediate written notice to HABC if at any time contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. Contractor 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.

57.2. Contractor 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 Clause 57 in all subcontracts resulting from this contract.

57. 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 contractor 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.

58. SAVING CLAUSE: The contractor 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.

59. 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.

60. 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 contractor shall be and remain liable to HABC for all damages to HABC caused by the contractor in the performance of the services under the contract.

61. 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.

62. ENTIRE AGREEMENT: The contract shall be executed in duplicate original documents and shall constitute the entire agreement between HABC and the contractor. 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 contractor, its heirs, successors, executors, and at HABC's discretion, its assigns.

63. 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.

**[END OF PART 3 - CONTRACT TERMS AND CONDITIONS]**

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

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**ATTACHMENT 1**

**Bid Sheet**

The Contractor shall supply all labor, material, supervision, equipment, insurances, permits and other incidentals required to remove and replace existing windows with Energy Star rated, single hung, bronze colored exterior vinyl windows at 28 apartment buildings at Gilmor Homes.

**Scope of Work**

1. Replacement windows shall be vinyl, Energy Star rated, Series 3540 "finless" replacement units by MI Windows and Doors (or HABC approved equal) unless otherwise noted. Exterior portions of the window shall be colored bronze by paint or lamination with a 10-year warranty. Interior portions of window frames shall be white.
2. Window W6 shall be a mulled pair with a single hung and a casement to meet egress. The MI Series 9770 Casement (w/ simulated meeting rail) and Series 4300 Single Hung are recommended.
3. Remove any window treatments attached to the windows to be removed and store inside the unit. Roller shade brackets shall be removed and replaced no matter their location. Reinstall roller shades if present. Tenant window treatments should only be removed if window replacement requires it; these shall be reinstalled by tenant.
4. Remove existing air conditioning units and store within the unit. Tenant must reinstall.
5. Remove and properly dispose of existing windows and components including deteriorated wood, aluminum jamb wrap and all debris.
6. Preserve interior finishes and trim components and make repairs if damaged during window removal and replacement.
7. Supply and install any necessary blocking or shimming at jambs as needed for proper and adequate fastening of replacement windows and aluminum trim. Install all in accordance with manufacturer recommendation and warranty.
8. Replace deteriorated wood sill and jamb material as needed.
9. Fill voids at window perimeter with spray foam.
10. Wrap exterior steel lintels and exteriors of existing wood jambs and sills with bronze colored aluminum coil stock .019 thickness minimum. Color to match windows.
11. Caulk exterior windows with 100% silicone exterior sealant, bronze colored to match.
12. Caulk interior window joints with white silicone/latex interior paintable sealant.
13. New roller shade brackets shall be installed at each window. HABC will supply brackets.
14. Provide six spare top glass and bottom sashes for each window size for HABC inventory and future repairs.
15. Contractor must comply with HUD Lead Based Paint Regulations Chapter 15 – *Clearance* (Attachment 16, herein). All window sills to be tested and reported.
16. Contractor must submit a Lead Safe Work Plan that complies with all MDE Regulations and HUD *New HUD Lead Based Paint Regulations* (Attachment 16)
17. Lead paint is presumed at any existing wood, metal or masonry window or trim components that are painted, including steel lintels.

Total Bid Amount    \$ \_\_\_\_\_

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

Name, Address and Telephone Number of Bidder

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

Printed Name and Title of Authorized Official of Bidder

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

Signature of Authorized Official of Bidder

Date

**[End Attachment 1]**

HOUSING AUTHORITY OF BALTIMORE CITY  
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ATTACHMENT 2

FEE CERTIFICATION AND AFFIDAVIT OF NON-COLLUSION

By signing below, the undersigned official of the bidder hereby certifies and affirms under penalties of perjury that: (a) costs, prices and/or fees and services stated in this bid are made without prior agreement, understanding, or connection with any corporation, firm or person submitting a bid for the same services, and are fair and without fraud; (b) that the bidder has not colluded, conspired, connived or agreed, directly or indirectly with any bidder or person to put in a sham bid or to refrain from submitting a bid, and has not in any manner, directly or indirectly, sought by agreement, collusion, or communication with any person to fix the bid price or any element of the bid, or to secure any advantage against HABC or any person; (c) that the bidder agrees to be bound by all conditions of this bid and (d) that this official is authorized to sign this affidavit for the firm.

\_\_\_\_\_  
Printed Name of Bidder

\_\_\_\_\_  
Name and Title of Authorized Official  
Representative or Official of Bidder

\_\_\_\_\_  
Signature of Authorized      Date  
Representative or Official  
of Bidder

[End Attachment 2]

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
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ATTACHMENT 3

HABC CONFLICT OF INTEREST STATEMENT

PART I. GENERAL CONFLICT OF INTEREST STATEMENT

1. In accordance with the regulations of the United States Department of Housing and Urban Development (HUD), 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. 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).

3. As provided in Article 44-A of the Annotated Code of Maryland, 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.

4. 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.

5. Any member of these classes of persons must disclose the member's interest or prospective interest to HABC and HUD.

6. Any bidder who submits a bid in response to an HABC solicitation must disclose in its bid, the interest, direct or indirect, of any member of the classes of persons listed in Paragraph 1, 2, 3, and 4 above in such bidder, and shall also make the disclosures required in Parts II and III below.

7. The bidder shall also disclose any relationship the bidder and/or its principals may have with: (a) any named or proposed subcontractor; and (b) any member of a joint-venture team competing for the proposed contract.

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

1. It is HABC's policy to avoid situations which place a bidder 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 bidder may have which relates to the work to be performed pursuant to the proposed contract or where the bidder receives an unfair competitive advantage in submitting a bid or bid for the proposed contract, such as, for example, a bidder who submits a 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 bidder's objectivity in performing the proposed contract work or result in an unfair competitive advantage to the bidder are considered organizational conflicts of interest.

2. Where a bidder is aware of, or has reason to be aware of an organizational conflict of interest, whether an actual or apparent conflict, the bidder 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 bidder has a possible organizational conflict of interest with respect to:

a. being able to render impartial, technical sound, and objective assistance or advice, or

b. being given an unfair competitive advantage.

3. The bidder 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, bidders shall complete the certification in Part III below, titled Conflict of Interest Certification of Bidder.

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 bidder 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 bidder.

7. If the Contracting Officer determines that a potential conflict exists, the selected bidder 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 Bidder 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.

**PART III. CONFLICT OF INTEREST CERTIFICATION OF BIDDER**

1. The Bidder 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 Bidder.

2. The Bidder 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 Bidder's organizational, financial, contractual or other interests may:

(a) Result in an unfair competitive advantage to the Bidder; or

(b) Impair the Bidder's objectivity in performing the contract work.

3. The Bidder agrees that if the contract is awarded to the Bidder, 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 Bidder 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 Bidder agrees that if the contract is awarded to the Bidder, 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 Bidder 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 bid form for the firm.

\_\_\_\_\_  
\_\_\_\_\_  
Printed Name and Title  
of Authorized Official of Bidder

\_\_\_\_\_  
Signature of Authorized Official      Date  
of Bidder

**[End Attachment 3]**

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
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**ATTACHMENT 4**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY,  
AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS**

SOURCE: 24 C.F.R. PART 24, APPENDIX B TO PART 24;  
FEDERAL REGISTER, VOL. 60, NO. 122, JUNE 26, 1995

**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 4]

HOUSING AUTHORITY OF BALTIMORE CITY  
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GILMOR HOMES WINDOW REPLACEMENT  
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ATTACHMENT 5

AUTHORIZATION OF BIDDER OFFEROR FOR VERIFICATION OF REFERENCES

The undersigned bidder for Housing Authority of Baltimore City Invitation for Bids Number B-1901-19 hereby authorizes and requests any and all persons, firms, corporations and/or government entities to promptly furnish any and all information requested by the Housing Authority of Baltimore City in verification of the references provided and for determining the quality and timeliness of the services provided by the Bidder. A copy of this document, after execution by the Bidder, presented by the Housing Authority of Baltimore City to any such person, firm, corporation and/or government entity shall be as valid as the original.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Printed Name and Address of Bidder

\_\_\_\_\_  
Printed Name and Title of Authorized Representative  
or Official of Bidder

\_\_\_\_\_  
Signature of Authorized Representative      Date  
or Official of Bidder

[End Attachment 5]

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
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ATTACHMENT 6  
HUD FORM 5369 INSTRUCTIONS TO BIDDERS FOR CONTRACTS

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

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

# Instructions to Bidders for Contracts

## Public and Indian Housing Programs

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### 1. Bid Preparation and Submission

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

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

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

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

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

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

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

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

### 2. Explanations and Interpretations to Prospective Bidders

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

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

### 3. Amendments to Invitations for Bids

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

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

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

### 4. Responsibility of Prospective Contractor

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

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

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

## 5. Late Submissions, Modifications, and Withdrawal of Bids

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

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

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

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

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

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

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

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

## 6. Bid Opening

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

## 7. Service of Protest

(a) Definitions. As used in this provision:

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

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

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

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

## 8. Contract Award

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

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

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

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

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

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

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

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

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

**10. Assurance of Completion**

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

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

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

[ ] (3) a 20 percent cash escrow;

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

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

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

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

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

**11. Preconstruction Conference (applicable to construction contracts)**

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

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

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

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

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

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

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

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

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

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

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

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

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

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

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

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

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

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

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

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

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

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

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 7  
HUD FORM 5369-A REPRESENTATIONS, CERTIFICATIONS,  
AND OTHER STATEMENTS OF BIDDERS

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

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

# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

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### 1. Certificate of Independent Price Determination

#### (a) The bidder certifies that--

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

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

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

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

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

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

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

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

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

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

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

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

### 2. Contingent Fee Representation and Agreement

#### (a) Definitions. As used in this provision:

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

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

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

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

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

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

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

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

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

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

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

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

[ ] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

#### 5. Bidder's Certification of Eligibility

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

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

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

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

#### 6. Minimum Bid Acceptance Period

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

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

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

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

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

The bidder represents and certifies that it:

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

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

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

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

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

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

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

**10. Certification of Nonsegregated Facilities** (applicable to contracts exceeding \$10,000)

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

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

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

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

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

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

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

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

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

The bidder certifies that:

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

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

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

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

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

(b) A fully executed "Previous Participation Certificate"

[ ] is, [ ] is not included with the bid.

**13. Bidder's Signature**

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

\_\_\_\_\_  
(Signature and Date)

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

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

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Company Address)

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 8  
HUD FORM 5370 GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS -  
PUBLIC HOUSING PROGRAMS

# 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.

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## 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.
- (l) "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 **365** 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 an adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

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

### 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 \$ 500.00 [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 of 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.

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#### 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.

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 9  
GENERAL WAGE DECISIONS

"General Decision Number: MD20190061 01/04/2019

Superseded General Decision Number: MD20180076

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 \$10.60 for calendar year 2019 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 \$10.60 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 2019. 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	01/04/2019

\* CARP0251-007 05/01/2017

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

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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

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

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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)).

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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.

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### 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.

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END OF GENERAL DECISION

"

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 10  
HUD FORM 2530 PREVIOUS PARTICIPATION CERTIFICATION

# Previous Participation Certification

OMB Approval No. 2502-0118  
(Exp. 05/31/2019)

## US Department of Housing and Urban Development Office of Housing/Federal Housing Commissioner

## US Department of Agriculture Farmers Home Administration

### Part I to be completed by Controlling Participant of Covered Projects (See instructions)

Reason for submission:		For HUD HQ/FmHA use only			
1. Agency name and City where the application is filed		2. Project Name, Project Number, City and Zip Code			
3. Loan or Contract amount \$	4. Number of Units or Beds	5. Section of Act	6. Type of Project (check one) Existing	Rehabilitation	Proposed (New)

### 7. List all proposed Controlling Participants and attach organization chart for all organizations

Name and address of Principals and Affiliates (Name: Last, First, Middle Initial) proposing to participate	8 Role of Each Principal in Project	9. SSN or IRS Employer Number

Certifications: The controlling participants(s) listed above hereby apply to HUD or USDA FmHA, as the case maybe, for approval to participate as controlling participant(s) in the role(s) and project listed above. The controlling participant(s) each certify that all the statements made on this form are true, complete and correct to the best of their knowledge and belief and are made in good faith, including any Exhibits attached to this form. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. The controlling participants(s) further certify that to the best of their knowledge and belief:

- Schedule A contains a listing, for the last ten years, of every project assisted or insured by HUD, USDA FmHA and/or State and local government housing finance agencies in which the controlling participant(s) have participated or are now participating.
- For the period beginning 10 years prior to the date of this certification, and except as shown on the certification:
  - No mortgage on a project listed has ever been in default, assigned to the Government or foreclosed, nor has it received mortgage relief from the mortgagee;
  - The controlling participants have no defaults or noncompliance under any Conventional Contract or Turnkey Contract of Sale in connection with a public housing project;
  - There are no known unresolved findings as a result of HUD audits, management reviews or other Governmental investigations concerning the controlling participants or their projects;
  - There has not been a suspension or termination of payments under any HUD assistance contract due to the controlling participant's fault or negligence;
  - The controlling participants have not been convicted of a felony and are not presently the subject of a complaint or indictment charging a felony. (A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by imprisonment of two years or less);
  - The controlling participants have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency;
  - The controlling participants have not defaulted on an obligation covered by a surety or performance bond and have not been the subject of a claim under an employee fidelity bond;
  - All the names of the controlling participants who propose to participate in this project are listed above.
- None of the controlling participants is a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined in Standards of Ethical Conduct for Employees of the Executive Branch in 5 C.F.R. Part 2635 (57 FR 35006) and HUD's Standard of Conduct in 24 C.F.R. Part 0 and USDA's Standard of Conduct in 7 C.F.R. Part 0 Subpart B.
- None of the controlling participants is a participant in an assisted or insured project as of this date on which construction has stopped for a period in excess of 20 days or which has been substantially completed for more than 90 days and documents for closing, including final cost certification, have not been filed with HUD or FmHA.
- None of the controlling participants have been found by HUD or FmHA to be in noncompliance with any applicable fair housing and civil rights requirements in 24 CFR 5.105(a). (If any controlling participants have been found to be in noncompliance with any requirements, attach a signed statement explaining the relevant facts, circumstances, and resolution, if any).
- None of the controlling participants is a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.
- Statements above (if any) to which the controlling participant(s) cannot certify have been deleted by striking through the words with a pen, and the controlling participant(s) have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances

Name of Controlling Participant	Signature of Controlling Participant	Certification Date (mm/dd/yyyy)	Area Code and Tel. No.
This form prepared by (print name)		Area Code and Tel. No.	

Previous editions are obsolete

OMB Approval No. 2502-0118  
(Exp. 05/31/2019)

**Schedule A: List of Previous Projects and Section 8 Contracts.** Below is a complete list of the controlling participants' previous participation projects and participation history in multifamily Housing programs of HUD/FmHA, State and local Housing Finance Agencies. **Note:** Read and follow the instruction sheet carefully. Make full disclosure. Add extra sheets if you need more space. Double check for accuracy. If no previous projects, write by your name, **"No previous participation, First Experience"**.

1. Controlling Participants' Name (Last, First)	2. List of previous projects (Project name, project ID and, Govt. agency involved)	3. List Participants' Role(s) (indicate dates participated, and if fee or identity of interest participant)	4. Status of loan (current, defaulted, assigned, foreclosed)	5. Was the Project ever in default during your participation Yes No If yes, explain	6. Last MOR rating and Physical Insp. Score and date
				<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, explain	

Received and checked by me for accuracy and completeness; recommend approval or refer to Headquarters after checking appropriate box.

Date (mm/dd/yyyy)		Tel No. and area code		<input type="checkbox"/> A. No adverse information; form HUD-2530 approval recommended.		<input type="checkbox"/> C. Disclosure or Certification problem	
Staff		Processing and Control		<input type="checkbox"/> B. Name match in system		<input type="checkbox"/> D. Other (attach memorandum)	
Signature of authorized reviewer		Signature of authorized reviewer		Approved		Date (mm/dd/yyyy)	

## Instructions for Completing the Previous Participation Certificate, form HUD-2530

Carefully read these instructions and the applicable regulations. A copy of those regulations published at 24 C.F.R. part 200, subpart H, can be obtained on-line at [www.gpo.gov](http://www.gpo.gov) and from the Account Executive at any HUD Office. Type or print neatly in ink when filling out this form. Mark answers in all blocks of the form. If the form is not filled completely, it will delay approval of your application.

Attach extra sheets as you need them. Be sure to indicate "Continued on Attachments" wherever appropriate. Sign each additional page that you attach if it refers to you or your record. **Carefully read the certification before you sign it.** Any questions regarding the form or how to complete it can be answered by your HUD Account Executive.

**Purpose:** This form provides HUD with a certified report of all previous participation in HUD programs by those parties making application. The information requested in this form is used by HUD to determine if you meet the standards established to ensure that all controlling participants in HUD projects will honor their legal, financial and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency. HUD requires that you certify your record of previous participation in HUD/USDA-FmHA, State and Local Housing Finance Agency projects by completing and signing this form, before your project application or participation can be approved.

HUD approval of your certification is a necessary precondition for your participation in the project and in the capacity that you propose. If you do not file this certification, do not furnish the information requested accurately, or do not meet established standards, HUD will not approve your certification.

***Note that approval of your certification does not obligate HUD to approve your project application, and it does not satisfy all other HUD program requirements relative to your qualifications.***

**Who Must Sign and File Form HUD-2530:** Form HUD-2530 must be completed and signed by all Controlling Participants of Covered Projects, as such terms are defined in 24 CFR 200.212, and as further clarified by the Processing Guide referenced in 24 CFR 200.210(b) and made available on the HUD website at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/prevparticipation](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/prevparticipation).

**Where and When Form HUD-2530 Must Be Filed:** The original of this form must be submitted to the HUD Office where your project application will be processed at the same time you file your initial project application. This form must be filed with applications for projects listed in 24 CFR 200.214 and for the Triggering Events listed at 24 CFR 200.218.

**Review of Adverse Determination:** If approval of your participation in a HUD project is denied, withheld, or conditionally granted on the basis of your record of previous participation, you will be notified by the HUD Office. You may request reconsideration in accordance with 24 CFR 200.222 and further clarified by the Processing Guide. Request must be made in writing within 30 days from your receipt of the notice of determination.

**Specific Line Instructions** are set forth in the Processing Guide.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by law (42 U.S.C. 3535(d) and 24 C.F.R. 200.217) and by regulation at 24 CFR 200.210. This information is needed so that principals applying to participate in multifamily programs can become HUD-approved controlling participants. The information you provide will enable HUD to evaluate your record with respect to established standards of performance, responsibility and eligibility. Without prior approval, a controlling participant may not participate in a proposed or existing multifamily or healthcare project. HUD uses this information to evaluate whether or not controlling participants pose an unsatisfactory underwriting risk. The information is used to evaluate the potential controlling participants and approve only individuals and organizations that will honor their legal, financial and contractual obligations.

**Privacy Act Statement:** The Housing and Community Development Act of 1987, 42 U.S.C. 3543 requires persons applying for a Federally-insured or guaranteed loan to furnish his/her Social Security Number (SSN). HUD must have your SSN for identification of your records. HUD may use your SSN for automated processing of your records and to make requests for information about you and your previous records with other public agencies and private sector sources. HUD may disclose certain information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law. You must provide all of the information requested in this application, including your SSN.

**Public reporting burden** for this collection of information is estimated to average 1 hour 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 agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

A response is mandatory. Failure to provide any of the information will result in your disapproval of participation in this HUD program.

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

**ATTACHMENT 11**  
**BID SUBMITTAL GUIDELINES**

1. An original and one (1) copy of the typewritten bid, each bearing original, manual signatures, in a sealed envelope.

Please mark the outside of the bid envelope with the bid number, your company name, and the bid due date. The cover page should have the bidder's legal company name.

2. Evidence of bidder's capacity to be legally bound by contract (bid language uses the example of a copy of a valid certificate of incorporation or organization).
3. Evidence of bidder's ability to provide insurance coverages as stated in the IFB (Sample Certification of Insurance)
4. Bidders must read and sign/check where appropriate in Part 2, starting on page 19, and any page with a signature or check mark requirement must be included in the bid package.
5. "Bid Sheet(s)" (Attachment 1)
6. "Fee Certification and Affidavit of Non-Collusion" (Attachment 2)
7. "HABC Conflict of Interest Statement" (Attachment 3)
8. "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions" (Attachment 4)
9. Authorization of Bidder Offeror for Verification of References (Attachment 5) – Include 3 References
10. HUD Form 5369C Certification and Representations of Offeror (Attachment 7)
11. HUD Form 2530 Previous Participation Certification (Attachment 10)
12. **Prime Contractor M/WBE Statement of Intent (Attachment 12)**
13. **Section 3 Compliance Plan (Attachment 13A) - Section 3 Compliance Plan should include: position, responsibilities for the position, hourly rate of pay, and any training opportunities. Also, you may satisfy Section 3 requirements by subcontracting with a Section 3 Business. Should you choose this option, please provide a letter of intent between your firm and the Section 3 Business and proof of the subcontractor's Section 3 status. Please review Sections II.22 through II.25 for further guidance pertaining to submission of the Section 3 Compliance Plan.**
14. **Section 3 of the HUD Act of 1968, As Amended, First Source Hiring Agreement (Attachment 13B)**
15. **Bid Bond Form (Attachment 15)**

**[End Attachment 11]**

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 12  
PRIME CONTRACTOR MBE STATEMENT OF INTENT

Housing Authority of Baltimore City  
Fair Housing and Equal Opportunity  
417 E. Fayette Street, Suite 922  
Baltimore, MD 21202

**Prime Contractor MBE Statement of Intent**

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

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

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

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

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

\_\_\_\_\_  
(Prime Contractor) agrees to enter into a contractual agreement with

\_\_\_\_\_  
(MBE Subcontractor), who will provide the following services in  
connection with the above contract: \_\_\_\_\_

Total Dollar Amount of Contract: \$ \_\_\_\_\_

Total Dollar Amount of MBE Subcontract: \$ \_\_\_\_\_

Total MBE Percentage of Total Contract Value: \$ \_\_\_\_\_

\_\_\_\_\_  
(MBE Subcontractor) is currently certified with the \_\_\_\_\_

\_\_\_\_\_ Office to function in the aforementioned capacity.

\_\_\_\_\_  
(MBE Subcontractor) certification number is \_\_\_\_\_.

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.

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

\_\_\_\_\_  
Signature MBE (required)

\_\_\_\_\_  
Title Date

\_\_\_\_\_  
Title Date

**Complete a separate form for each MBE and named in Bid**

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
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ATTACHMENT 13A  
SECTION 3 COMPLIANCE PLAN  
SEE PAGE 10 - Section II.22.  
SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
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ATTACHMENT 13B  
SECTION 3 OF THE HUD ACT OF 1968, AS AMENDED  
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: \_\_\_\_\_

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 13C

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 present (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 is 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 RESIDENT 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>	
<b>Project Name No. (if applicable)</b>			<b>Date Completed:</b>		
<b>Company:</b>			<b>State:</b>		
<b>Address:</b>			<b>City:</b>		
<b>City:</b>			<b>Zip:</b>		
<b>Person Completing This Form:</b>	<b>Office #:</b>	<b>Fax #:</b>	<b>Email Address:</b>		

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

**I am an employee of the business listed above, AND**  
 (Please answer by placing a check in the appropriate box)  
**I am an 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 FY 2018 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%)	\$33,250	\$38,000	\$42,750	<b>\$47,450</b>	\$51,250	\$55,050	\$58,850	\$62,650
Extremely Low (30%)	\$19,950	\$22,800	\$25,650	<b>\$28,450</b>	\$30,750	\$33,740	\$38,060	\$42,380
Low (80%)	\$50,350	\$57,550	\$64,750	<b>\$71,900</b>	\$77,700	\$83,450	\$89,450	\$94,950

**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>
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<b>Employee Name (printed):</b>			<b>Date Hired:</b>	
<b>Address:</b>	<b>City:</b>	<b>State:</b>	<b>Zip:</b>	<b>HABC Development</b>
<b>Employee Signature:</b>			<b>Date:</b>	
			<b>Acct. No.</b>	

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.

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 14  
SECTION 3 OBLIGATION 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 IFB, 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, Fair Housing Specialist (410) 396-1969

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 15  
BID BOND FORM

Bond No: \_\_\_\_\_  
Surety's U.S. Treasury Circular #570 Page No: \_\_\_\_\_  
Agent's Maryland License No: \_\_\_\_\_

**BID BOND**

**KNOW ALL BY THESE PRESENTS**, that we, \_\_\_\_\_

as Principal, hereinafter called Principal, and \_\_\_\_\_  
\_\_\_\_\_ a corporation duly organized under the laws of the  
State of \_\_\_\_\_ as Surety, hereinafter called Surety, are held and firmly  
bound unto the Housing Authority of Baltimore city ("HABC"), in the amount of five percent  
(5%) of the bid \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the  
payment of which sum well and truly to be made, we, Principal and Surety bind ourselves, our  
heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these  
presents.

**WHEREAS**, the Principal has submitted a bid for **HABC Contract No. B-1901-19  
Gilmor Homes Window Replacement**

**NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION** are such that,  
if the HABC shall accept the bid of the Principal and the Principal shall enter into a contract with  
the HABC in accordance with the terms of such bid, and give such bond or bonds as may be  
specified in the bidding or contract documents with good and sufficient surety for the faithful  
performance of such contract and for the prompt payment of labor and material furnished in the  
prosecution thereof, or in the event of the failure of the Principal to enter such contract and give  
such bond or bonds, if the Principal shall pay to the HABC the difference, not to exceed the  
penalty hereof, between the amount of specified in said bid and such larger amount for which the  
HABC may in good faith contract with another party to perform work covered by said bid, then  
this obligation shall be null and void, otherwise to remain in full force and effect.

This Bid Bond shall be governed by and construed in accordance with the laws of the  
State of Maryland and any reference herein to Principal or Surety in the singular shall include all  
entities in the plural who or which are signatories under the Principal or Surety heading below.

**IN WITNESS WHEREOF**, the above bounded parties have executed this instrument  
under their several seals this \_\_\_\_\_ day of \_\_\_\_\_ 2019, the name and corporate  
seal of each corporate party being hereto affixed and these presents duly signed by its  
undersigned representative, pursuant to authority of its governing body.

**Attest:**

\_\_\_\_\_

\_\_\_\_\_  
(Corporate Principal)

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
(Affix Corporate Seal)

**Attest:**

\_\_\_\_\_

\_\_\_\_\_  
(Corporate Surety-Company Name)

\_\_\_\_\_  
Authorized By: (Name & Title)

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
(Affix Corporate Seal)

HOUSING AUTHORITY OF BALTIMORE CITY  
INVITATION FOR BIDS  
GILMOR HOMES WINDOW REPLACEMENT  
HABC IFB NUMBER: B-1901-19

ATTACHMENT 16

HUD LEAD-BASED PAINT REGULATIONS - CHAPTER 15 CLEARANCE