



INVITATION FOR BIDS TO PROVIDE ELECTRICAL SERVICES TO CHANGE
OUT FIXTURES AND INSTALLATION OF LED LIGHTING
TO THE
MELVINDALE HOUSING COMMISSION

Dated: November 20, 2015
Bid Opening: December 21, 2015
Prepared by: Cynthia C. Telfer
Executive Director
3501 Oakwood Blvd.
Melvindale, MI 48122

Note: Sealed bids will be received in the Administrative Office of the Melvindale, 3501 Oakwood Blvd., Melvindale, MI 48122 until December 21, 2015 at 2:00 p.m. at which time they will be opened and recorded.

Invitation to Bid

The Melvindale Housing Commission (MHC) requests the submission of written proposals from qualified contractors to remove existing compact fluorescent lights (and their fixtures) and replace with Light Emitting Diode (LED) fixtures (and lights) to common areas at Coogan Terrace. Some areas will also have an occupancy sensor installed to further control electrical use.

Materials are anticipated to be purchased from a supplier through a separate process. This invitation is for labor only.

This Request for Proposal contains specific submission requirements, anticipated scope and period of services requirements, as well as terms, conditions and other pertinent information for submitting a proposal for this service. MHC Office hours are Monday through Friday 8:00a.m. to 4:30 p.m. Eastern Daylight Savings time. A free copy of the ITB document can be obtained starting November 20, 2015 by emailing Cynthia C. Telfer, Executive Director/Procurement Officer, ctelfer@melvindalehc.org or by picking up a copy at the MHC office.

Important Dates for the ITB	
ITB published and distributed	November 20, 2015
Pre-bid Conference	December 9, 2015 – 10:00 a.m.
Proposal due	December 21, 2015 – 2:00 p.m.
Proposal evaluation and negotiations	Following bid opening
Contract Award – Target	January 19, 2016

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I. INSTRUCTIONS TO BIDDERS FOR CONTRACTS

Public and Indian Housing Programs

HUD-5369 (Behind this page)

**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 or 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 —

*Cynthia C Telfer
Executive Director
3501 Oakwood Blvd
Melvindale, MI 48122*

[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, accept 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) NA

(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.

**II. GENERAL CONTRACT CONDITIONS FOR SMALL CONSTRUCTION/
DEVELOPMENT CONTRACTS**

HUD 5370- EZ (behind this page)

General Contract Conditions for Small Construction/Development Contracts

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB Approval No. 2577-0157 (exp. 1/31/2017)

Applicability. The following contract clauses are applicable and must be inserted into small construction/development contracts, greater than \$2,000 but not more than \$100,000.

1. Definitions

Terms used in this form are the same as defined in form HUD-5370

2. 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. The only liens on the PHA's property shall be the Declaration of Trust or other liens approved by HUD.

3. Disputes

- (a) Except for disputes arising under the **Labor Standards** clauses, 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.
- (b) 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.
- (c) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (d) 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 days after receipt of the Contracting Officer's decision.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

4. 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 the 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; and
 - (2) The Contractor, within 10 days from the beginning of such delay 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 obligation of the parties will be the same as if the termination had been for convenience of the PHA.

5. 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.

6. 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.

7. 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.

8. Changes

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) PHA-furnished facilities, equipment, materials, services, or site; or,

(4) Directing the acceleration in the performance of the work.

(b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

- (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor

breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs - when size of change warrants revision.

- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.

- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

9. Examination and Retention of Contractor's Records

The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

10. Rights in Data and Patent Rights (Ownership and Proprietary Interest)

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

11. Energy Efficiency

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

12. 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.

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the

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- 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.

14. Labor Standards - Davis-Bacon and Related Acts

(a) Minimum Wages.

(1) All laborers and mechanics employed under this contract in the construction or development 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 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 the 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 prime 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) 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 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.

(e) 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.

(f) 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.

(g) 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.

(h) Contract Termination; Debarment. A breach of the labor standards clauses in this contract may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) Non-Federal Prevailing Wage Rates. Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

- (i) 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;
- (ii) 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
- (iii) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

III. INTRODUCTION

The Melvindale Housing Commission (MHC) is currently soliciting sealed proposals for the labor to convert fluorescent lighting to LED at Coogan Terrace. The deadline for submitting a proposal is December 21, 2015 at 2:00 p.m.

Interested and qualified firms that have successfully demonstrated their ability to perform comparable work are invited to submit proposals.

Respondents are expected to examine the complete ITB document and all attachments. Failure to do so is at the respondent's risk. It is the respondent's responsibility to ask questions, request changes or clarifications or otherwise advise the MHC if any language, specifications or requirements of the ITB appear ambiguous or contradictory.

Any and all communication from respondents regarding specifications, requirements, competitive proposal process, etc., should be directed to Cynthia C. Telfer, Executive Director/Procurement Officer.

The ITB document and any attachments constitute the complete set of specifications and proposal response forms. No verbal or written information that is obtained other than through this ITB or its addenda shall be binding on the Melvindale Housing Commission. No employee of the Melvindale Housing Commission is authorized to interpret any portion of this ITB or give information as to the requirements of the ITB other than Cynthia C. Telfer.

The Melvindale Housing Commission will not be liable for costs incurred by Respondents for proposal preparation, printing, demonstration or any other costs associated with or incurred in reliance on proposal creation. All costs are the responsibility of the Respondent.

The Melvindale Housing Commission administers Coogan Terrace, a 199 unit, one-bedroom apartment complex for elderly and/or disabled residents. As a federally funded agency we are soliciting proposals in harmony with our Procurement policy and federal guidelines for assisted housing. A pre-bid conference will be held to familiarize interested bidders with the property on December 9, 2015 at 10:00 a.m., at the offices of the Melvindale Housing Commission located at 3501 Oakwood Blvd., Melvindale, MI 48122.

IV. GENERAL CONDITIONS

1. Melvindale Housing Commission Reservation of Rights

- a) MHC reserves the right to reject any or all proposals, to waive any informality in the specifications or proposal process or to cancel in whole or in part this Request for Proposal if it is the best interest of the MHC to do so.

In the event of conflict between the unit price and extended price, unit price shall prevail.

- b) MHC reserves the right not to award a contract pursuant to this ITB
- c) MHC reserves the right to retain all proposals
- d) MHC reserves the right to reject and not consider any proposal that does not meet the requirements of this ITB, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- e) MHC shall have no obligation to compensate any proposer for any costs incurred in responding to this ITB.
- f) MHC reserves the right at any time during the ITB or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not confirm to any of the requirements detailed herein.

2. Bid Deadline and Submission Requirements

All proposals must be submitted by December 21, 2015 no later than 2:00 p.m. to Cynthia C. Telfer, Executive Director at Melvindale Housing Commission, 3501 Oakwood Boulevard, Melvindale, MI 48122. **Proposals must be submitted in a sealed envelope marked, “Electrical Upgrade”.**

Please submit one original and one copy.

Bids must reach the MHC no later than 2:00 p.m. on December 21, 2015. It is the sole responsibility of the bidder to submit their proposal “on time” before the bid deadline.

All bids received by the deadline will be opened publicly and read aloud in the Conference Room of the MHC at 2:05 p.m. NO COMMITMENT WILL BE MADE TO ANY BIDDER AT THE BID OPENING.

MHC staff designated to conduct the bid opening shall read aloud each bidders name and bid price. All bids received shall be recorded on a tabulation of bids, and then made available for public inspection.

Bids shall be evaluated and the award made in writing to the lowest responsive and responsible bidder. If equal low bids are received from responsible bidders, selection shall be made by drawing lots or other similar random method unless otherwise provided by Michigan law.

If only one responsive bid is received from a responsible bidder, award shall not be made unless the price can be determined to be reasonable, based on a cost or price analysis.

3. **Completion of Forms**

Each proposal must give the full business address of the offeror and be signed with offeror's usual signature. Proposals by a partnership must furnish full names of all partners and must be signed by one of the members of the partnership, or by an authorized representative, followed by the designation of the person signing. Proposals by a corporation, with corporate seal affixed, must be signed with the legal name of the corporation, followed by the name of the State of Incorporation and by the signature and designation of the president, secretary or other person authorized to bind it in the matter. The names of all persons signing shall be typed below the signatures. When requested, offerors shall furnish satisfactory evidence to the MHC of the officer signing on behalf of the corporation or partnership.

4. **Proposal Format**

Proposal submissions must include all required forms as noted below:

- A brief narrative of your company, qualifications of those proposed to provide services, information regarding training, experience and licensure to provide the services proposed.
- HUD 5369-A
- Bid Form
- Legal Status of Bidder
- Profile of Firm
- Proposal Form
- Three references for whom proposer has furnished similar work
- Certification for Section 3 Business

Minority/Women and Disabled Veteran Business Enterprise Program:

Offerors claiming status as a certified MBE/WBE or DVBE must also submit current State of Michigan certificates. Offerors doing business with State agencies, including the Commission, intending to use subofferors are required to make "good faith efforts" to subcontract with minority-, women- and disabled veteran-owned businesses. Supplementary information may be requested of offerors regarding efforts made to meet the intent of the State's Equal Opportunity Program.

Discrimination:

The Melvindale Housing Commission does not discriminate on the basis of sex, race, color, creed, nationality, age, religion or handicap. The Melvindale

Housing Commission strongly encourages certified Minority-, Women- and Disabled Veteran-owned businesses to bid.

5. Mistakes in Bids / Withdrawal of Proposal

Correction or withdrawal of bids may be permitted, where appropriate, before bid opening by written or facsimile notice received in the office designated in the ITB prior to the time set for bid opening.

After bid opening, corrections in bids may be permitted only if the bidder can show by clear and convincing evidence that a mistake of nonjudgmental character was made, the nature of the mistake and the bid price actually intended.

- a) A low bidder alleging a nonjudgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document but the intended bid is unclear or the bidder submits convincing evidence that a mistake was made.
- b) All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by the Executive or their designee. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the MHC or fair competition shall not be permitted.
- c) The Executive Director or designee may waive any irregularity if it is determined the waiver is in the best interest of the MHC.
- d) Irregular Proposal Submitted: A proposal shall be considered irregular for any one of the following reasons, any one or more of which may at MHC's discretion be reason for rejection:
 - If the forms furnished by the MHC are not used or are altered or if the proposed costs are not submitted as required and where provided.
 - If all the requested completed attachments do not accompany the proposal submitted.
 - If there are unauthorized additions, conditional or alternate proposals or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the proposer submitting the same competitive advantage over other proposers.
 - If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

- In the individual cost proposal items submitted by a specific proposer are unbalanced in the sense that the listed price of any cost item departs by more than 25% from the MHC's cost estimate for that item.

6. Disqualification of Proposers: Any one or more of the following shall be considered as sufficient for the disqualification of a prospective proposer and the rejection of his/her proposal:

- Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as Proposers or Proposers for future work with MHC until such participant shall have been reinstated as a qualified bidder. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
- More than one proposal for the same work from an individual, firm, or corporation under the same or different names(s).
- Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
- Unsatisfactory performance record as shown by past work for MHC or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.
- Incomplete work, which in the judgment of the MHC might hinder or prevent prompt completion of additional work, if awarded.
- Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
- Failure to comply with any qualification requirements of MHC.
- Failure to list, if required, all subcontractors (if subcontractors are allowed by MHC) who will be employed by the successful proposer(s) to complete the work of the proposed contract.
- As required by the ITB documents, failure of the successful proposer to be properly licensed and/or insured by a commercial general liability policy and/or workers compensation policy and/or business automobile liability policy if applicable.
- Any reason determined in good faith, to be in the best interests of MHC.

7. Right to Protest

Please refer to page 2 of HUD-5369-B "Instructions to Bidders for Contracts Public and Indian Housing Programs. Section 7 – Service of Protest provides definitions for this provision.

- a) **Eligibility:** To be eligible to file a protest with MHC pertaining to an ITB or contract, the alleged aggrieved protestant must have been involved in the ITB process in some manner as a prospective proposer when the alleged situation occurred. MHC has no obligation to consider a protest filed by any party that does not meet these criteria.

- b) **Procedures:** Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of MHC procurement policy. Any protest against a MHC solicitation must be received before the due date for receipt of proposals and any protest against the award of the contract must be received within ten calendar days after contract award or protest will not be considered.

All protests must be in writing and submitted to the Executive Director for a written decision. A decision shall be issued within 30 days from the receipt of a protest. The decision is then appealable to the Board of Commissioners within 10 days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the example below:

APPEAL OF ITB FOR: (insert description here)
Melvindale Housing Commission
3501 Oakwood Blvd.
Melvindale, MI 4812
Attn: Cynthia C. Telfer, Executive Director

8. **Proposal Evaluation**

Evaluation: Each proposal submittal will be evaluated based on the lowest, responsive, responsible bidder. See # 9 below regarding determination of responsible.

Burden of Proof: If requested by the MHC, it shall be the responsibility of the proposer(s) to furnish MHC with sufficient data or physical samples, within a specific time so that MHC may determine if the goods or services offered conform to the specifications.

9. **Award of Proposal:** The successful proposer(s) shall be determined by the top-rated responsive and responsible proposer, provided his/her proposal is reasonable and within budget, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of the MHC in the best interests of the MHC to accept the proposal.

The MHC must determine responsibility which includes the following:

- 1) Bidder must have adequate financial resources to perform the contract, or the ability to obtain them;

- 2) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all bidder's/offeror's existing commercial and governmental business commitments;
- 3) Have a satisfactory performance record;
- 4) Have a satisfactory record of integrity and business ethics;
- 5) Have the necessary organization, experience, accounting and operational controls, and technical skills or the ability to obtain them;
- 6) Have the necessary production, construction and technical equipment and facilities, or the ability to obtain them; and
- 7) Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not be suspended, debarred or under a HUD-imposed Limited Denial of Participation.

10. **Interpretations.** Any questions concerning conditions and specifications shall be directed in writing to the Melvindale Housing Commission, ATTENTION: Cynthia C. Telfer at ctelfer@melvindalehc.org or at the address provided above, for receipt no later than ten (10) days prior to the proposal opening which is by close of business on Inquiries must reference the proposal title and opening date. No interpretation shall be considered binding unless provided in writing in the form of an addendum by MHC.
11. **Definition of Terms.** As used herein, "Firm" "Responder," and "Contractor" are generally interchangeable and may have the same meaning depending upon the context in which the term is used.
12. **Prices and Terms.** Fee proposal shall be made for the period designated and include all costs for the service specified. MHC reserves the right to negotiate all elements of the Responder's proposal, including fees.
13. **Conflict of Interest.**
 - a. No member, officer or employee of MHC, no member of the governing body of the locality in which MHC was activated and no other public official of such locality or localities who exercise any responsibilities or functions with respect to MHC, during their tenure, or for one year subsequent thereto, shall have any interest whether direct or indirect, in the purchase award or the proceeds thereof.
 - b. No member of, or delegate to the Congress of the United States, or any Representative of MHC shall be permitted to any share, part or portion of the purchase award or to any benefit which may arise there from.
 - c. All Responders must disclose with their proposal the names of any persons listed in paragraphs a. and b. above who owns, directly or indirectly, an interest in the Responder or any of its branches.

14. **Availability of Funds.** In the event funds necessary to finance the purchase of the services are not available, MHC may cancel the award and all binding agreements will become null and void upon no less than twenty- four (24) hours' notice in writing to the Responder. Said notice shall be delivered by certified mail, return receipt requested. MHC shall be the final authority as to the determination of the availability of funds.

15. **Government Restrictions.** In the event any governmental restrictions may be imposed which would necessitate alteration of the performance of services offered, it shall be the responsibility of the successful Responder to immediately notify MHC in writing and specifying the regulation which requires an alteration. MHC reserves the right to accept such alteration, including any reasonable price adjustments occasioned thereby, or to cancel the contract at no expense to MHC.

16. **Availability of Records.** MHC, and any duly authorized representatives, shall have access to, and the right to examine any and all pertinent books, records, documents, invoices, papers and the like, of the Responder, or in the possession of the Responder, which shall relate to performance of the services to be provided.

17. **Permits, Licenses, Taxes and Independent Contractor Status.**

The successful Responder shall obtain all permits and licenses that are required for performing his 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 jurisdictions, and shall give all notices necessary in connection therewith and pay all fees relating thereto and all cost or expenses incurred on account.

The successful Responder shall assume, and is liable for, all state and federal payroll and/or social security taxes, and guarantees to hold MHC harmless in every respect against same.

The person or firm who is awarded a contract for security services shall in the performance of the Contract at all time is an independent contractor and not an employee or agent of the Melvindale Housing Commission. The Contractor, its officers, employees and agents shall at no time represent the Contractor to be other than an independent contractor or represent themselves to be other than employees of the Contractor.

18. **Insurance**

A Worker's Compensation Insurance -- The successful Responder shall take out and maintain during the life of the contract, Worker's Compensation Insurance, in accordance with State Workman's Compensation Laws, for all of his employees employed at the sites of the work called for in these specifications.

b. General Liability and Property Damage Insurance -- The successful Responder shall take out and maintain during the life of the contract, such general liability insurance as shall protect him while performing work covered by the contract from claims for damages which may arise while performing work covered by the contract from claims for damages which may arise from operations under the contract; whether such operations be by himself or by any other directly or indirectly employed by him and the amounts of such insurance shall be as follows:

(1) General Liability Insurance in an amount not less than \$1,000,000 for injuries, including death, to any one person and subject to the same limit for each person in an amount not less than \$1,000,000 on account of one occurrence.

(2) Motor Vehicle Liability Insurance on all vehicles owned, leased or otherwise used by the successful Responder in an amount of not less than \$500,000 for injury, including death to any one person in an amount not less than \$500,000 on account of one occurrence and property damage insurance in an amount not less than \$500,000 for each occurrence, said liability limited to occurrences on the job sites.

c. In addition to the above requirements to obtain and maintain general liability insurance, and motor vehicle liability insurance in which MHC is an additional named insurer or as named insured, the successful Responder shall agree to hold MHC, its officers, agents and employees, which arise out of any action or omission of the Responder or any of his officers, employees or agents, which condition was not specified to be created or maintained by the contract. The agreement to hold MHC, its officers, agents and employees, harmless shall not be limited to the limit of liability insurance required under the provisions of these specifications or contract, of which the specifications are made a part.

d. The insurance company must be licensed to do business in the State of Michigan.

e. Bonding -- The successful Responder shall maintain a Company Bond covering the Company and Employees of the Company during the life of the contract. The bonding amount for each employee shall be made known to MHC. The Company shall provide a copy of the bond to the MHC annually.

19. Proof of Insurance. The successful Responder shall furnish to MHC, a certified copy of the policy or policies covering the work as required in the specifications as

evidence that the insurance required will be maintained in force for the entire duration of the work performed under the contract agreement.

20. **Standards of Conduct.** The successful Responder shall be responsible for maintaining satisfactory standards of employees' competency, conduct, courtesy, appearance, honesty, and integrity, and shall be responsible for taking such disciplinary action with respect to any employee, as may be necessary.
21. **Removal of Employees.** MHC may request the successful Responder to immediately remove from this assignment and/or dismiss any employee found unfit to perform duties due to one or more of the following reasons:
 - (a) Neglect of duty.
 - (b) Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions or fighting.
 - (c) Theft, vandalism, immoral conduct or any other criminal action.
 - (d) Selling, consuming, possessing, or being under the influence of intoxicants, including alcohol, or illegal substances while on assignment for MHC.
 - (e) Failure to perform services as agreed to per scope of work in Contract.
22. **Supervision/Identification.**
 - (a) The successful Responder shall provide adequate competent supervision at all times during the performance of the contract. To that effect, that assigned representative of the Contractor and one or more alternates shall be designated in writing to MHC prior to contract start. The Contractor or his designated representative must be readily available to meet with MHC personnel. The successful Responder shall provide the telephone numbers where its representative(s) can be reached.
 - (b) The successful Responder shall furnish employees and representatives of the Contractor with identification as to their employment by the Contractor.
23. **Performance Evaluation Meetings.** The assigned representative of the Contractor shall be readily available to meet with representatives of MHC weekly during the first month of the Contract and as often as necessary thereafter. A mutual effort will be made to resolve any problems identified at these meetings.
24. **Official, Agent and Employees of the MHC Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official officer, employee or agent of MHC in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
25. **Subcontractors:** Unless otherwise stated with the ITB documents, the successful proposer may not use any subcontractors to accomplish any portion of the services

described within the ITB documents or the contract without the prior written permission of the MHC. Also any substitution of subcontractors must be approved in writing by MHC prior to their engagement.

26. **Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the ITB documents, the successful proposer shall pay all salaries and expenses of and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
27. **Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
28. **Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
29. **Time of the Essence:** Time is of the essence as to each provision in which a time frame for performance is provided in this ITB. Failure to meet these time frames may be considered a material breach, and MHC may pursue compensatory and/or liquidated damages under the contract.
30. **Limitation of Liability:** In no event shall MHC be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.
31. **Indemnity:** The Contractor shall indemnify and hold harmless MHC and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from Contractor, its agent, or its subcontractor of any tier received or sustained by any person or property growing out of occurring, or attributable to any work performed under or related to this Agreement, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor, and REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE MHC. CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT, SURVIVES TERMINATIONS OF THIS AGREEMENT, AND

APPLIES TO CLAIMS AND LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF MHC.

Contractor shall indemnify and hold harmless the MHC, their agents, consultants and employees from and against any and all property damage claims, losses, damages, costs and expenses relating to the performance of this Agreement, including any resulting loss of use, *but only to the extent caused by the negligent acts or omissions of Contractor*, its employees, sub-contractors, suppliers, manufacturers, or other persons or entities for whose acts Contractor may be liable.

32. Termination: Please refer to HUD-5370 EZ, page 1 Section (4) Default and Section (5) Termination of convenience.

33. Invoicing

- Contractors will only be allowed to invoice for the cost of services/goods in compliance with his/her proposal or best and final offer as accepted by MHC.
- Invoices must contain a complete description of the work or service that was performed, the contract price for each service, the purchase order number, contract number if applicable, date of service and address of service location or delivery address.
- Contractor must submit invoices within sixty (60) days after delivery of the goods or services. If Contractor fails to invoice within sixty days after delivery of goods and services, MHC reserves the right to not pay the invoice.
- Invoices shall be sent to the following address:

Attention: Cynthia C. Telfer, Executive Director
Melvindale Housing Commission – 3501 Oakwood Blvd
Melvindale, MI 48122

34. Lobbying Certification: Please see HUD-5369A, page 1, Section 3 “Certification and Disclosure Regarding Payments to Influence Federal Transactions”. Although this language is applicable to contracts exceeding \$100,000, the principles apply to any contractor doing business with the MHC.

35. Conflicting Conditions: In the event there is a conflict between the documents comprising this ITB and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached HUD forms and the term/conditions in the body of any resulting contract; (2) the ITB; and (3) Contractor’s Response. In the event that a conflict exists between any state statute or federal law the most restrictive terms apply.

36. Contract Form: The MHC will execute a contract using its own format. By submitting a proposal, the successful proposer agrees to this condition. The MHC will consider any contract clauses that the proposer wishes to include herein, but the

failure of the MHC to include such clauses does not give the successful proposer the right to refuse the MHC's contract form.

37. **Force Majeure:** Neither MHC nor Contractor shall be held responsible for delays or default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively MHC or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

38. **Labor Standards – Davis Bacon and Related Acts**

Please refer to HUD-5370-EZ, Section 14.

All laborers and mechanics paid under this contract must be paid not less often than once per week.

The wage rate paid must correspond to published Davis Bacon Wage rates. Copy of wage rates are included in ITB package.

Payrolls and basic records must be maintained by the Contractor during the course of the work and preserved for three years thereafter for all laborers and mechanics working in the project.

A copy of certified payrolls must be submitted to the MHC for each work in which work is performed.

END OF SECTION

DAVIS BACON WAGE RATES

General Decision Number: MI150101 10/30/2015 MI101

Superseded General Decision Number: MI20140101

State: Michigan

Construction Type: Building

County: Wayne County in Michigan.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is 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 \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/02/2015
1	02/06/2015
2	02/20/2015
3	03/06/2015
4	06/05/2015
5	06/26/2015
6	07/10/2015
7	07/24/2015
8	08/07/2015
9	08/14/2015
10	08/21/2015
11	09/04/2015
12	10/02/2015
13	10/30/2015

ASBE0025-002 06/01/2015

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 31.51	30.24

BOIL0169-001 01/01/2014

	Rates	Fringes
BOILERMAKER.....	\$ 32.78	28.39

BRMI0001-001 06/01/2013

	Rates	Fringes
BRICKLAYER.....	\$ 32.67	18.40

TILE FINISHER.....	\$ 26.15	16.22
TILE SETTER.....	\$ 32.25	16.22

CARP0687-003 06/01/2015

	Rates	Fringes
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CARPENTER (Including Acoustical Ceiling Installation, Drywall Hanging, Form Work, Metal Stud Installation & Scaffold Building).....	\$ 30.41	26.90
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CARP1045-001 06/01/2015

	Rates	Fringes
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CARPENTER (Floor Layer - Carpet, Resilient, & Vinyl Flooring).....	\$ 27.50	22.84
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CARP1102-002 06/01/2013

	Rates	Fringes
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MILLWRIGHT.....	\$ 31.11	28.64
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ELEC0058-001 06/30/2015

	Rates	Fringes
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ELECTRICIAN (Low Voltage Wiring and Installation of Alarms)		
Installer.....	\$ 24.25	12.38
Technician.....	\$ 31.83	10.91
ELECTRICIAN.....	\$ 35.88	21.12

ELEV0036-002 01/01/2015

	Rates	Fringes
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ELEVATOR MECHANIC.....	\$ 46.73	28.685
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ENGI0324-017 06/01/2014

	Rates	Fringes
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OPERATOR: Power Equipment		
GROUP 1.....	\$ 39.14	21.90
GROUP 2.....	\$ 37.64	21.90
GROUP 3.....	\$ 36.14	21.90
GROUP 4.....	\$ 35.84	21.90
GROUP 5.....	\$ 35.02	21.90
GROUP 6.....	\$ 34.16	21.90
GROUP 7.....	\$ 33.19	21.90
GROUP 8.....	\$ 31.48	21.90
GROUP 9.....	\$ 23.14	21.90

FOOTNOTES:

Tower cranes: to be paid the crane operator rate determined by the combined length of the mast and the boom. If the worker must climb 50 ft. or more to the work station, \$.25 per hour additional.

Derrick and cranes where the operator must climb 50 ft. or more to the work station, \$.25 per hour additional to the applicable crane operator rate.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Crane with boom and jib or leads 400' or longer

GROUP 2: Crane with boom and jib or leads 300' or longer

GROUP 3: Crane with boom and jib or leads 220' or longer

GROUP 4: Crane with boom and jib or leads 140' or longer

GROUP 5: Crane with boom and jib or leads 120' or longer

GROUP 6: Regular crane operator, and concrete pump with boom operator

GROUP 7: Backhoe/Excavator/Trackhoe, bobcat/skid Loader, broom/sweeper, bulldozer, grader/blade, highlift, hoist, loader, roller, scraper, tractor & trencher

GROUP 8: Forklift & extend-a-boom forklift

GROUP 9: Oiler

IRON0025-019 06/01/2015

	Rates	Fringes
IRONWORKER		
REINFORCING.....	\$ 28.30	24.60
STRUCTURAL.....	\$ 33.78	27.84

IRON0025-022 04/01/2014

	Rates	Fringes
IRONWORKER STRUCTURAL (Metal Building Erection Only).....	\$ 23.39	21.13

LAB00259-002 08/01/2015

	Rates	Fringes
LABORER: Asbestos Abatement (Removal from Floors, Walls & Ceilings).....	\$ 27.18	13.27

LAB00334-005 06/01/2015

	Rates	Fringes
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LABORER: Landscape & Irrigation

GROUP 1.....	\$ 19.76	9.15
GROUP 2.....	\$ 15.54	9.15

CLASSIFICATIONS

GROUP 1: Landscape specialist, including air, gas and diesel equipment operator, lawn sprinkler installer, skidsteer (or equivalent)

GROUP 2: Landscape laborer: small power tool operator, material mover, truck driver and lawn sprinkler installer tender

LAB01191-002 06/01/2015

Rates Fringes

LABORER

Common or General; Grade Checker; Mason Tender - Brick/Cement/Concrete; Pipelayer; Sandblaster.....	\$ 23.89	20.05
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* PAIN0022-003 06/01/2015

Rates Fringes

PAINTER: Brush and Roller.....	\$ 26.06	17.66
PAINTER: Drywall Finishing/Taping.....	\$ 27.05	18.26
PAINTER: Spray.....	\$ 26.86	17.66

* PAIN0357-002 06/01/2015

Rates Fringes

GLAZIER.....	\$ 30.05	18.10
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PAID HOLIDAYS: New Year's Day, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day; provided that the employee has worked the last full regular scheduled work day prior to the holiday, and the first full regular scheduled work day following the holiday, provided the employee is physically able to work.

PLAS0067-001 04/01/2014

Rates Fringes

CEMENT MASON/CONCRETE FINISHER...	\$ 30.63	14.07
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PLAS0067-004 04/01/2014

Rates Fringes

PLASTERER.....	\$ 30.63	14.07
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PLUM0098-001 06/01/2014

	Rates	Fringes
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PLUMBER, Excludes HVAC Pipe and Unit Installation.....	\$ 32.84	24.44
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PLUM0636-003 06/03/2014

	Rates	Fringes
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PIPEFITTER, Includes HVAC Pipe and Unit Installation.....	\$ 39.86	25.15
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ROOF0149-001 06/01/2014

	Rates	Fringes
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ROOFER.....	\$ 29.10	20.83
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SFMI0704-001 08/01/2015

	Rates	Fringes
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SPRINKLER FITTER (Fire Sprinklers).....	\$ 42.76	22.66
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SHEE0080-004 07/01/2015

	Rates	Fringes
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SHEET METAL WORKER (Including HVAC Duct Installation; Excluding HVAC System Installation).....	\$ 37.24	26.56
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TEAM0247-001 06/01/2015

	Rates	Fringes
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TRUCK DRIVER		
GROUP 1		
Flatbed; Pickup; Dump & Tandem.....	\$ 25.69	0.60+a
GROUP 2		
Semi.....	\$ 25.84	0.60+a
GROUP 3		
Lowboy.....	\$ 25.94	0.60+a

PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If any of the above holidays fall on a Sunday, the following Monday shall be considered the holiday and, if work is performed, the rate shall be double time.

FOOTNOTE:
a. \$404.45 per week, plus \$59.60 per day.

SUMI2011-026 02/01/2011

	Rates	Fringes
INSTALLER - OVERHEAD DOOR.....	\$ 27.98	0.00
IRONWORKER, ORNAMENTAL.....	\$ 18.48	7.93
TRUCK DRIVER: Tractor Haul Truck.....	\$ 13.57	1.18

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

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

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that

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

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

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

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

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

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

=====

END OF GENERAL DECISION

SCOPE OF WORK – SPECIFICATIONS

Background / Description of facility

The Melvindale Housing Commission administers a 199 unit public housing apartment building for low income disabled and/or senior persons. The building was constructed in 1984 through 1985 and opened to its first resident in July 1985. There are eight residential floors, one mechanical floor and a “penthouse” that holds elevator equipment. The first floor also houses the administrative office, a library, community room, laundry room, public restrooms, resale shop, lobby, maintenance shop / garage, garbage chute and apartments.

Each subsequent floor has three wings, a laundry room per floor and a garbage room with chute per floor as well as one room (per floor) for tenant storage.

Compact fluorescent lights were installed during construction throughout the common areas of the building. The community room was upgraded in 2013; lights in this room are not included in this ITB. All other common area lights shall be removed and new LED lighting installed.

It is the MHC’s intension to contract separately for electrical materials / fixtures. This ITB is for labor to perform the work only.

Below is a listing of the locations where removal and reinstallation are desired along with the LED material type and quantity. It is the MHC’s desire to have sensors installed in the stairwells to add additional cost savings.

Location	Fixture or Retrofit Kit	Quantity	Sensor Description
Garage	8 ft. Suspended LED Strip Light	1	NA
Garage	4 ft. Suspended LED Strip Light	1	NA
Electrical Room	8 ft. Suspended LED Strip Light	4	NA
Maintenance	LED 2 x 4 Layin Troffer	6	NA
Maintenance	8 ft. Suspended LED Strip Light	2	NA
Maintenance	8 ft. Suspended LED Strip Light	1	NA
Library	LED 2 x 4 Layin Troffer	9	NA
Lobby	Wall Mount LED 4 ft. Linear Sconce	4	NA
Lobby Corridor	LED Wallpack	1	NA
Lobby	LED 2 x 4 Layin Troffer	15	NA
Lobby	GE LED Tubes (2 tubes per driver)	22	NA

Lobby Corridor	Wall Mount LED 4 ft. Linear Sconce	1	NA
Office	LED 2 x 4 Layin Troffer	7	NA
Office	LED 2 x 2 Layin Troffer	5	NA
Office	LED 2 x 4 Surface Mount Troffer	3	NA
Nora's Closet	LED 2 x 4 Layin Troffer	12	NA
Ladies Room	Wall Mount LED 4 ft. Linear Sconce	1	Wall mounted Dual Tech Occ Sensor
Ladies Room	LED 2 x 4 Layin Troffer	1	Wall mounted Dual Tech Occ Sensor
Men's Room	Wall Mount LED 4 ft. Linear Sconce	1	Wall mounted Dual Tech Occ Sensor
Men's Room	LED 2 x 4 Layin Troffer	1	Wall mounted Dual Tech Occ Sensor
Compactor	4 ft. Suspended LED Strip Light	1	
Receiving	8 ft. Suspended LED Strip Light	2	
Stairwells	LED 4 ft. Surface Mount w/ Integrated sensor	16	Wall mounted Dual Tech Occ Sensor
Laundry Room 1st floor	LED 1 x 4 Surface Mount	4	Wall mounted Dual Tech Occ Sensor
Hallways 1st floor	LED 1 x 4 Surface Mount	12	
Location			
Penthouse	8 ft. Suspended LED Strip Light	15	
Floors 2-8 Hallways	LED 1 x 4 Surface Mount	154	
Floors 2-8 Elevator Lobby	LED 1 x 4 Surface Mount	28	
Floors 2-8 Laundry	LED 2 x 4 Layin Troffer	14	Wall mounted Dual Tech Occ Sensor
	Wall Sensor	10	Wall mounted Dual Tech Occ Sensor
	Total	354	

PROPOSAL FORM
Attachment A

Melvindale Housing Commission
3501 Oakwood Blvd.
Melvindale, MI 48122

The undersigned, as Bidder, hereby declares that this bid is made in good faith, without fraud or collusion with any person or persons bidding on the same Contract; that he/she has carefully read and examined indexed items in the Invitation to Bid and understands all the same. The Bidder declares that he or his representative has made a personal investigation at the site and of the work herein proposed and is fully informed as to the nature of the work and the conditions relating to its performance.

The Bidder acknowledges that he has not received or relied upon any representations or warrants of any nature whatsoever from the Melvindale Housing Commission, its agents or employees, and that this bid is based solely upon the Bidder's own independent business judgment.

The undersigned hereby proposes to perform all work described in the Scope of Work and Specifications, including any Addenda issued thereto, and to furnish all necessary machinery, tools, apparatus, and other means of construction to do all the work, furnish all the materials, and complete the work herein described in strict accordance with all terms of the Contract of which this Proposal is one part.

The undersigned agrees to contract for said work and to furnish the all necessary Insurance Certificates within seven (7) days after being notified of the acceptance of his Bid.

If this Proposal is accepted by the Melvindale Housing Commission and the Bidder fails to contract as aforesaid and to furnish the required Insurance Certificates with seven (7) days after being notified of the acceptance of this Bid, then the undersigned shall be considered to have abandoned the Contract and the Melvindale Housing Commission will execute a contract with the next responsive bidder or re-bid the work.

In submitting this Bid, it is understood that the right is reserved by the Melvindale Housing Commission to accept any Bid, to reject any or all Bids, to waive irregularities and/or informalities in any Bid, and to make the award in any manner deemed in the best interest of the Melvindale Housing Commission.

SIGNED THIS _____ DAY OF _____, 2015

Firm Name

Authorized Signature of Bidder

Official Address

Telephone Number

**ATTACHMENT B
Bid Form**

Labor to remove current fluorescent bulbs and existing fixtures, replacing them with fixtures, LED lighting and sensors where noted in the Scope of Work.

Anticipated staff and costs:

Staff:	Number	Anticipated Hours	Hourly Rate w/out Fringe	Hourly Fringe Cost	Total anticipated cost
Laborer (s)					
Electrician (s)					
Apprentice (s)					
Other (please explain)					
TOTAL Labor cost				\$	
Profit				\$	
TOTAL JOB COST (firm fixed rate)				\$	

Name (Please Print)

Offeror Signature

Title

Date

LEGAL STATUS OF BIDDER
Attachment C

(The Bidder shall fill out the appropriate form and strike out the other two.)

NAME OF BIDDER _____

ADDRESS: _____

TELEPHONE NO: _____ FAX NO: _____

Bidder declares that it is:

*A corporation organized and doing business under the laws of the state of _____, for whom _____, bearing the office Title of _____, whose signature is affixed to this proposal, is authorized to execute contracts.

*A partnership, list all members and the street and mailing address of each:

- 1. _____
- 2. _____
- 3. _____
- 4. _____

Also identify the County and State where partnership papers are filed:

County of _____, State of _____

*An individual, whose signature with address, is affixed to this proposal: _____

(initial here)

ATTACHMENT D - PROFILE OF FIRM

- (1) Name of Firm: _____
- (2) Address, City, State, Zip: _____
- (3) Telephone _____ Fax: _____
Email: _____
- (4) Diversity Statement: Please check all that apply to the ownership of this firm.
 Public Held Corporation Government Agency Non-Profit Partnership Solely Owned
 Woman owned Disabled veteran Minority (African American, Native American, Hispanic American, Asian Pacific or Asian/Indian American)
- (5) Federal Tax ID Number: _____
- (6) Business License No: _____ State: _____
- (7) **Debarred Statement:** Has this firm or any principal(s) ever been debarred from providing services by the Federal Government, any state government or any local government agency? ___yes ___no
(If yes, please attach a full detailed explanation, including dates, circumstances and current status)
- (8) **Disclosure Statement:** Does this firm or any principals thereof have any current or past or professional relationship with any Commissioner or officer of the Melvindale Housing Commission? ___yes ___no
(If yes, please attach a full detailed explanation, including dates, circumstances and current status)
- (9) **Non-Collusive Affidavit:** The undersigned part submitting this proposal or bid hereby certifies that such proposal or bid is genuine and not collusive and that said proposer entity has not colluded, conspired, or connived or agreed, directly or indirectly with any proposer or person to put in a sham proposal or bid or to refrain from proposing or bidding, and had not in any manner directly or indirectly sought by agreement or collusion or communication or conference with any person to fix the proposal or bid price of affiant or of any other proposer or bidder or to secure any advantage against the Melvindale Housing Commission or any person interested in the proposed contract; and that all statements or bids are true.
- (10) **Verification of Statement:** The undersigned proposer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate and agrees that if the MHC discovers that any information entered herein is false, that shall entitle the MHC to not consider or make or to cancel any award with the undersigned party.

Signature

Date

Printed Name

Title

ATTACHMENT E - REFERENCE FORM

Please provide a list of a minimum of three (3) references from previously completed, similar work, within the past five (5) years.

1) _____ \$ _____
Firm Contract Cost Duration of Contract

Contact Name Phone Number

2) _____ \$ _____
Firm Name Contract Cost Duration of Contract

Contact Name Phone Number

3) _____ \$ _____
Firm Name Contract Cost Duration of Contract

Contact Name Phone Number

ATTACHMENT F
CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

Type of Business: Corporation Partnership

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease Copy of receipt of public assistance
 Copy of evidence of participation Other evidence
in a public assistance program

For business entity as applicable:

- Copy of Articles of Incorporation Certificate of Good Standing
 Assumed Business Name Certificate Partnership Agreement
 List of owners/stockholders and Corporation Annual Report
% ownership of each Latest Board minutes appointing officers
 Organization chart with names and titles Additional documentation
and brief function statement

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 the business:

- List of all current full-time employees List of employees claiming Section 3 status
 PHA/IHA Residential lease less than 3 Other evidence of Section 3 status less than 3
years from day of employment years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
 Statement of ability to comply with public policy
 List of owned equipment
 List of all contracts for the past two years

Authorizing Name and Signature

**Attachment G –
HUD 5369-A**

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

**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)