Request for Proposals
Lighting Replacement Project

Must be received by 10:00 a.m. on February 6, 2017

All services to be provided at various locations throughout Lake County, IL. Unit inspections are scheduled on January 26, 2017 starting at 9:30am according to the site access schedule as listed below.

General items:
Remove and replace the existing lighting bulbs, ballast drivers and or fixtures as identified below. All exterior lighting is to be tied into the existing circuits and timers.

Interior T8 and T12 tubes are to be replaced with new MHT Lighting Linear Retrofit Kits for 2x4 Troffers. Model MHTI-magt8-4ft or equivalent.

Exterior fixtures are to be replaced with new MHT Lighting devices or equivalent.

Interior fixtures are to be replaced with Lithonia Lighting Matte White Integrated LED Round Low-Profile Flushmount fixtures or equivalent.

Interior screw in bulbs are to be replaced with Cree Replacement Led bulbs or equivalent.

Install new VendingMiser beverage or vending machine occupancy controls as identified below.

Remove and replace the existing lighting bollards at Warren Manor with new First Light Technologies PLB-102 Series Solar LED Bollards 36” 4500k and cap off any existing wiring under the base of the new bollards. All units are to be securely mounted with security screws or bolts.

The selected contractor will provide all materials and labor to complete the full project.

Breakdown of Interior LED screw in bulbs needed for replacement of existing bulbs

<table>
<thead>
<tr>
<th>Location</th>
<th>Sum of Replacement Lamp Quantity per Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beach Haven</td>
<td>504</td>
</tr>
<tr>
<td>Millview</td>
<td>50</td>
</tr>
<tr>
<td>Orchard</td>
<td>80</td>
</tr>
<tr>
<td>Warren Manor</td>
<td>23</td>
</tr>
<tr>
<td>John Kuester Manor</td>
<td>80</td>
</tr>
</tbody>
</table>
Breakdown of Interior LED fixtures for the circular fluorescent replacements

<table>
<thead>
<tr>
<th>Location</th>
<th>Sum of Replacement Lamp Quantity per Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beach Haven</td>
<td>99</td>
</tr>
<tr>
<td>Millview</td>
<td>77</td>
</tr>
<tr>
<td>Orchard</td>
<td>93</td>
</tr>
<tr>
<td>John Kuester Manor</td>
<td>93</td>
</tr>
</tbody>
</table>

Breakdown of Interior LED 5000k 4’ Linear Replacement Lamp bulbs needed for replacement of existing linear lamp bulbs. All existing ballasts are to be replaced with LED Drivers. All existing 4 lamp fixtures are to be retrofitted with 2 LED Bulbs.

<table>
<thead>
<tr>
<th>Location</th>
<th>Sum of Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grayslake Admin Building</td>
<td>396</td>
</tr>
<tr>
<td>Beach Haven</td>
<td>377</td>
</tr>
<tr>
<td>Millview</td>
<td>126</td>
</tr>
<tr>
<td>Orchard</td>
<td>176</td>
</tr>
<tr>
<td>Warren Manor</td>
<td>6</td>
</tr>
<tr>
<td>John Kuester Manor</td>
<td>176</td>
</tr>
</tbody>
</table>

Breakdown of the Refrigerated beverage or vending machine occupancy controls to be added.

<table>
<thead>
<tr>
<th>Location</th>
<th>Sum of Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beach Haven</td>
<td>2</td>
</tr>
<tr>
<td>Grayslake Admin Building</td>
<td>1</td>
</tr>
</tbody>
</table>

Breakdown of Exterior LED Fixtures needed for replacement of existing fixtures. New fixtures must be rated for outdoor use.

<table>
<thead>
<tr>
<th>Location</th>
<th>Sum of Total Replacement Fixture Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>10W Exterior LED</strong></td>
<td></td>
</tr>
<tr>
<td>Millview</td>
<td>12</td>
</tr>
<tr>
<td>Orchard</td>
<td>23</td>
</tr>
<tr>
<td>Warren Manor</td>
<td>18</td>
</tr>
<tr>
<td>John Kuester Manor</td>
<td>23</td>
</tr>
<tr>
<td><strong>120W Exterior LED Parking Lot Heads</strong></td>
<td></td>
</tr>
<tr>
<td>Grayslake Admin Building</td>
<td>4</td>
</tr>
</tbody>
</table>
Breakdown of Exterior solar light bollards fixtures needed for replacement of existing fixtures. New fixtures must be rated for outdoor use.

<table>
<thead>
<tr>
<th>LED Wall Pack (≤30W)</th>
<th>Sum of Replacement Lamp Quantity per Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warren Manor</td>
<td>25</td>
</tr>
</tbody>
</table>

- Modify existing or install any needed electrical, piping or associated materials for the proper operation of the new units. Any exposed wires are to be covered with wiremold raceways painted to match the mounting location.
- Modify and repair any interior or exterior wall or ceiling areas as needed and repair to like new condition after installation.
- Repaired areas to be patched, primer, and painted to perfect condition using LCHA standard color of Sherman Williams Low Luster Antique White.

Additional-
- Final Clean entire construction area -condition left ready for move in, including the removal and disposal of any and all debris.
- Supply cost of any needed permits: Must be secured prior to commencing any on site work.
Total $______  
Mandatory 10% Contingency $________.

- As appropriate a 5% Bid bond is required to be submitted with any bid in excess of $100,000.00 and the selected contractor will be required to secure a 100% performance and payment bond prior to the execution of any contract.
- Please include a proposed schedule detailing the construction timing and the days that accessibility will be limited. At least 1 entry must be safe and accessible at all times on each side. The goal for LCHA is to lessen the impact to our tenant during the duration of this project.
- Cut sheets must be submitted with bid for all proposed materials.
- Contractor to provide any facilities for secure material storage, scrap disposal and restroom facilities during construction.
- All work areas to be cleaned and picked up daily basis for any materials and scrap.

1. Primary Contacts/Notice Addresses:
   Lake County Housing Authority
   Ryan Brandes
   33928 N. US Highway 45
   Grayslake, Illinois 60030
   Phone: 847-223-1170 x 266

2. Site Access:
   Each listed unit will be open for brief inspection in the following order.
   Please call the procurement office to state intent to attend the showings.
   
   Warren Manor 34425 Almond, Gurnee – Exterior pathway only
   Orchard Manor 465 Orchard, Antioch- 25 units
   Millview Manor 801 Cunningham, Antioch- 25 units
   Beach Haven Towers 730 Golfview Dr., Round Lake Beach- 99 units
   John Kuester Manor 310 Osage, Wauconda - 25 units

3. Terms:
   60 days to complete work after Notice to Proceed is issued. All work must be completed and payment required documentation submitted to LCHA no later than April 30, 2017
   
   All work is to be done during normal hours per local construction code. All work to be done up to code.
• Required with bid is a copy of any and all locally issued licensing, showing compliance with each individual municipality licensing requirements.
• It is important to note that some of these are occupied buildings or units and all reasonable efforts must be utilized to maintain proper working conditions.
• Contractor will immediately alert LCHA if property is damaged or vandalized in any way that is an immediate threat to public safety.
• To all practical extent, LCHA wishes to maintain safe and accessible communities for LCHA, its residents, employees, and guests. This includes a safe means of entry to, exit from, and movement within the communities. The selected vendor will be contracted to a “hold harmless” clause and will provide recordkeeping including (but not limited to) location information, date and time, names and jobs of personnel doing the work and any incident reports.

• Pursuant to Section 15 of the Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 et seq., a copy of the Contractor’s written substance abuse prevention program must be submitted prior to the commencement of the Work.

• If subcontractors are to be used they must be listed on the bid form. The general contractor or prime contractor must complete at least 12% of the project by himself or his employees. The job may not be subcontracted more than 88%. If subcontractors are used each subcontractor must submit proof to demonstrate the subcontract relationship (contract, incorporation papers, etc) and a Certificate of Insurance covering general liability and workers compensation for the subcontractor and employees.
  a. The subcontractor shall follow the same wage requirements as above for employees.
  b. If subcontractors hire other subcontractors, all requirements apply.

All work to be done in a workmanlike manner
$100 daily fines for late work start dates or contract surpassing contract timeframe.

4  The key
Please contact primary contact.

5  Total
Cost should include the prevailing wage for labor and Davis Bacon.
TERMS AND CONDITIONS
FOR LAKE COUNTY HOUSING AUTHORITY PROJECTS

A. All bids must conform to the “Instructions to Bidders”.

B. All specifications must be met in the bidders bid response.

C. The specifications and bid packages shall become a part of the Contractor’s contract agreement with the Lake County Housing Authority.

D. The Contractor shall provide a Certification of Insurance directed to the Lake County Housing Authority for General Liability Insurance in the amount of $500,000 or more and shall maintain at least that amount during the contract period.

E. Lake County Housing Authority reserves the right to reject any bidder whose contract agreement contains a clause that is onerous to the Housing Authority interests and which is not contained in the contract agreements submitted by other bidders.

F. Demonstration of Capability must be verified: A random survey of jobs and/or clients submitted by the bidder must establish that the bidder generally is performing in a capable and responsible manner. A pattern of dissatisfied clients shall be sufficient cause for disqualifying the bidder.

G. Hold Harmless Clause: The contractor shall save and hold harmless the Lake County housing Authority from and against all liability, claims and demands of whatsoever kind or nature arising out of or connected with the performance of work by the contractor, or in behalf of the County of Lake, whether such injury, death, loss or damage shall have been occasioned by the negligence of the contractor, or a subcontractor of the contractor or their employees, or otherwise. The contractor will defend at its own expense any actions based thereon and shall pay all charges of attorneys and all costs and other expenses arising there from.

H. Bid Bond: For all bids in excess of $100,000 a 5% bid bond in the form of a certified check, negotiable bank draft, or bid bond from an approved surety company must be submitted with the bid. If the bid bond is not submitted with the bid the Authority shall reject the bid.
I. Performance Bond: If the bid is over $100,000, the successful bidder must furnish a 100% performance and payment bond from an approved surety company authorized to do business in the State of Illinois.

J. Lake County Housing Authority is exempt from Illinois state sales tax. Any bids involving the purchase of materials shall be submitted without sales tax. LCHA will supply a tax exempt letter to vendors as requested on an individual basis.

K. Permits: The Contractor is responsible for securing and paying for any and all permits, licenses, and fees which may be necessary for the completion of the contract.

L. Penalty: Failure by the Contractor to complete the job on time according to the contract shall result in a penalty of $100 per day for each day or fraction thereof beyond the agreed completion date.

M. The Contractor, or subcontractor, is prohibited from placing a lien on any Lake County Housing Authority property.

N. The Lake County Housing Authority reserves the right to reject any or all bids received or to waive any informalities in the bidding. No bid shall be withdrawn for a period of 30 days subsequent to the opening of bids without consent of the LCHA.
GENERAL SPECIFICATIONS FOR MODERNIZATION

General

Lake County Housing Authority (LCHA) is seeking bids from qualified Contractors to provide general contracting services.

1. Provided services shall include all necessary labor and materials for a complete job as per the attached individual site specific plans and/or specifications.

2. All work shall be done in a professional, workmanlike manner and shall comply with all building codes. Contractor is responsible for securing and paying for any building permits and/or provide evidence of any business or trade licenses required by governing authorities for performance of the work and for scheduling any inspections which may be required. Contractor is also responsible for scheduling of deliveries, stocking and storage for all materials. The LCHA representative will designate a specific staging area for the contractor.

3. Contractor is responsible for re-working, adding to and/or modifying existing conditions as necessary to result in a complete professional and aesthetic installation of specified products.

4. Contractor shall be responsible for any and all patching of damaged areas due to installation as necessary to match existing surfaces. Care shall be taken to remove or protect any items or obstructions in the work area.

5. Work and or planning shall commence within 1 calendar days of signing the Notice to Proceed and shall be completed within the timeline stated on the Notice to proceed, unless stated otherwise. A penalty of $100 per day will be assessed for failure to comply with these requirements unless the completion date is extended in writing by LCHA.

6. For construction work Contractor to guarantee all labor and materials for a period of one year after final acceptance of work by L.C.H.A. and receipt of final certificate of occupancy for building permits issued.

7. This is a tax exempt job.
To: Contractors Bidding on Lake County Housing Authority Jobs

From:

RE: Summary of Major Labor Requirements
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The work items being bid are funded by appropriations from the Federal Government to Lake County Housing Authority (LCHA) and as such are subject to HUD requirements for contracts, wages, and general construction conditions. (These documents are HUD-5369, HUD 5369A, and HUD 5370; if not included in the bid packet copies of these documents may be obtained from LCHA and will become part of any contract).

A general summary of some of the important requirements of these documents follows. This is not intended to be a complete list of requirements but is for informational and review purposes only to assist contractors in preparing bids and subsequent payment requests and payroll reports:

1. Wages paid to workers must be at hourly wage rate and fringe benefit levels established by the Dept. of Labor. A summary of rates and classifications is attached.
   a. Every employee must be paid the appropriate hourly wage. If fringe benefits in the listed amount are not paid directly to an approved health and welfare fund, the amount must be added to the hourly wage of the employee and paid directly to the employee.
   b. Every employee shall have withholding for taxes, Medicare and FICA taken from each paycheck. No employee shall receive gross wages without deductions.
   c. No employee shall be paid per job or piecework unless in excess of the minimum hourly rate listed. All jobs must be bid and paid according to the hourly wage standards and hours worked.
   d. The hourly wage standards do not apply to the owners or officers of a company.

2. The general contractor or prime contractor must complete at least 12% of the project by himself or his employees. The job may not be subcontracted more than 88%. If subcontractors are used each subcontractor must submit proof to demonstrate the subcontract relationship (contract, incorporation papers, etc) and
a Certificate of Insurance covering general liability and workers compensation for the subcontractor and employees.

a. The subcontractor shall follow the same wage requirements as above for employees.

b. If subcontractors hire other subcontractors all requirements apply.

3. Workers on the site will be randomly interviewed by LCHA to determine their job classification and wage rates. All workers should be advised of their appropriate classification and hourly wage rates (with or without fringe benefits as applicable) before starting work.

4. If any workers are listed as apprentices and paid at apprentice rates an original apprentice certificate for the employee must be submitted to LCHA. No apprentice may work without the direct supervision of a journeyman or supervisor nor in excess of the approved ratio.

5. Payroll summaries (WH-347) or equivalent must be submitted to LCHA by contractors and subcontractors covering all workers on the job and must be completely filled out and signed. A sample is attached.

6. Requirements of Section 3 of the H.U.D. Act of 1968 involving documented efforts to utilize local labor and businesses are applicable to this project. The contractor is advised to review the following "Special Notice to Contractors" and "The Section 3 Clause" portion of the General Conditions that will be incorporated into the contract with the successful bidder.
SPECIAL NOTICE TO CONTRACTORS

RE: H.U.D. Section 3 Requirements

Section 3 requires that, to the greatest extent feasible, opportunities for job training and employment be given to lower income residents of the Section 3 area and contracts for work in connection with the Section 3 covered project be awarded to business concerns which are located in or owned in substantial part by persons residing in the Section 3 area. Section 3 requires that a recipient/contractor take affirmative steps to give preference to qualified Section 3 area residents and business concerns in providing training, employment and contraction in connection with Section 3 covered projects.

If, in bidding this project you anticipate using local subcontractors, the Housing Authority will provide you the names of Section 3 business concerns.

In the event additional employees will be added to your work force, please target recruitment by:

- Notifying the Housing Authority of job openings,
- Advertising in local media,
- Contacting local job training and placement centers,
- Notify community organizations serving Section 3 residents,
- Developing on the job training opportunities.

Once you have taken these steps, please provide documentation of your actions to the Housing Authority for our project records.
This contract and resulting scope of work is covered by section 3 of the H.U.D. Act of 1968 and shall include the following clause (referred to as the section 3 clause):

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 part 135 regulations.

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

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The subcontractor 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 contractors' obligations under 24 CFR part 135.

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

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7 (b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7 (b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7 (b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7 (b)
The Lake County Housing Authority has a statutory obligation to ensure that appropriate wage and fringe benefits are paid to all laborers and mechanics for all contracts in excess of $2,000.00. The bid package you received contained an updated wage determination applicable to your contract. **Fringe benefits do not include benefits required by other Federal, State or Local law.** The direct payment of an amount equal to the required fringe benefits may be substituted for a contribution to a bona fide fringe benefit program.

Covered employees must be paid *weekly*. Labor standards also require that certified payroll reports be submitted to the Housing Authority each *week* documenting each pay period. Failure to submit weekly certified payroll reports to LCHA will cause *delays in disbursing on payout requests*.

LCHA will interview your employees at the site of work. They should be prepared to identify their job classification, wage rate and benefits. Apprentices must demonstrate *proof* of their registration in a certified program.

This is not intended to be a comprehensive discussion of labor standards regulations. If you have questions regarding payroll or reporting requirements please raise them with LCHA staff as soon as possible.

Received by: ________________________________

Date: ________________________________
AFFIDAVIT

To Whom It May Concern:

Re: Labor Standards Administration

This is to certify that I have received all information including Labor Standards Administration and understand this property is to be administered under Davis-Bacon regulations for construction projects and State of Illinois regulations for non-construction projects.

Signature: _______________________________________

Title: ____________________________________________

Company Name: _________________________________

Date: ___________________________________________

In conformance with the policies expressed in Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; Executive Order 11478, as amended: the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1962, as amended; the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Act of 1974, the Civil Service Reform Act of 1978, and HUD regulations at 24 CFR Part 7, it is the policy and intent of the Lake County Housing Authority (LCHA) to provide equality of employment opportunity for all persons, and to prohibit discrimination because of Race, Color, Religion, Sex, National Origin, Age, or Disability in all facets of employment. Additionally, sexual harassment and discrimination based on sexual orientation are unacceptable in the workplace and will not be condoned. Moreover, LCHA is committed to promoting affirmative employment through the removal of barriers and by positive actions at every management level, including the early resolution of EEO disputes.

These policies are an integral part of HUD's mission. Their implementation is a high priority of Administration. LCHA is committed to Equal Employment Opportunity, Affirmative Employment and Diversity (EEO/AE/Diversity), and expects all contractors to support EEO/AE/Diversity. In carrying out their responsibilities, all managers and supervisors are fully accountable for taking actions to assure that EEO/AE/Diversity goals and objectives are achieved.

The EEO/AE/Diversity goals and objectives of the Department are expressed in HUD regulations at 24 CFR Part 7, as well as in the multiyear Affirmative Employment Program (AEP) Plan. EEO/AE/Diversity is a separate critical element in LCHAs contracting process.

Affirmative Employment Programs (AEP)

LCHA expects all contractors to be proactive in implementing EEO/AE/Diversity. The following strategies, set the standard for the achievement of that goal:

1. Be accountable for promoting EEO/AE policies, programs, and practices, including learning and practicing the principles of F.A.I.R. Feedback, Assistance, Inclusion, and Respect, in all interactions with employees and HUD clients.
2. Attend EEO/AE/Diversity training sessions to ensure full understanding of and sensitivity to EEO/AE/Diversity policies, practices, and procedures.
3. Make a vigorous effort to acquire full and fair representation of qualified minorities, women, and persons with disabilities when recruiting, hiring, and providing advancement opportunities.
4. Make use of Special Employment Programs to correct the under-representation of minorities, women, and persons with disabilities i.e., Part-Time Employment, Cooperative Education, Mentoring, Upward Mobility, Special Hiring Authorities, etc.
5. Learn and use Alternative Dispute Resolution (ADR) techniques to resolve problems early before they give rise to formal EEO Complaints or union contract grievances.
6. Participate in preparing an AEP Plan by analyzing all aspects of operations to determine any barriers to full equal employment, and by designing and carrying out actions to remove those barriers.
7. Refer to the AEP Plan goals and objectives before initiating any recruitment, hiring, training, reassignment, and promotion actions.
8. Periodically review AEP progress reports and make adjustments in activities to meet goals and objectives.
Employment and Accommodation of Persons with Disabilities

1. It is the policy of LCHA to establish employment practices to promote active recruitment and proper placement of qualified individuals with disabilities; provide selective placement assistance to assure retention and career advancement opportunities; and, to assure that individuals with disabilities have a full opportunity to be represented at every level in the work force.

2. It is also the policy of LCHA to provide Reasonable Accommodation to the known physical or mental limitations of qualified employees and job applicants with disabilities unless it can be shown that the accommodation would impose an undue hardship on its operations.

3. It is the goal of LCHA to be a model employer and promoter, of persons with disabilities by providing full and fair consideration, employment and retention of persons with disabilities in a broad range of grade levels and occupational series commensurate with their knowledge, skills, and abilities. Further, LCHA will assure that persons with disabilities are not unnecessarily excluded or limited because of job design or because of architectural, communication, procedural, or attitudinal barriers.

4. Contractors are responsible for achieving these goals, as expressed in their Affirmative Employment Program (AEP) Plan for Persons with Disabilities, at their respective office levels. They are also responsible for providing reasonable accommodation, which is a logical adjustment made to a job and work environment that enables a qualified person with disabilities to perform the duties of a position.

Disabled Veteran Employment

It is the policy of LCHA to promote the maximum employment and job advancement for qualified disabled veterans, similar to its policy goals and objectives with reference to all person with disabilities.

Contractors are responsible for achieving these goals, as expressed in their Disabled Veterans Affirmative Action Program (DVAAP) Plan, at their respective office levels.

Discrimination Based on Sexual Orientation

It is the policy of LCHA to prohibit discrimination on the basis of sexual orientation. Such discrimination with respect to employment conduct will not be tolerated by any contractor. For remedy, refer to the appropriate Administrative Procedures and/or appropriate negotiated agreements.

The Civil Service Reform Act, 5 U.S.C. 2302(b) prohibits any employee who has authority to take personnel actions from discriminating for or against any employee or applicant for employment on the basis of conduct which does not adversely affect either the employee's own job performance or the performance of others. Subsection (c) of 5 U.S.C. 2302 gives notice to agency heads that they will be held responsible for the prevention of prohibited personnel practices. This Act has been interpreted by the Office of Personnel Management (OPM) since 1980, to mean that "applicants and employees are to be protected against inquiries into, or actions based upon non-job-related conduct, such as religious, community or social affiliations, or sexual orientation."
Sexual Harassment

It is the policy of LCHA that sexual harassment is unacceptable conduct in the workplace and will not be condoned. Contractors are expected to have an established Anti-Sexual Harassment Policy that states that any employee found to have engaged in sexual harassment against any other employee may expect appropriate disciplinary action. All new employees shall be informed of this policy during their initial orientation sessions. This policy shall be reiterated for all employees at least once each year.

A Fact Sheet on Sexual Harassment is available from the Office of Departmental Employment Equal Opportunity.

Sexual Harassment has been determined by the Equal Employment Opportunity Commission to be "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or,
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment."

Sexual harassment is a form of sex discrimination under Title VII of the Civil Rights Act of 1964. There may be other causes of action under State and local law in addition to those found under Federal civil rights law. These include assault, and battery, intentional infliction of emotional distress, wrongful discharge, and negligence. Some advances may even warrant resort to criminal charges, such as sexual assault or rape.

LCHA is responsible for creating a working climate free from unsolicited and unwelcome sexual overtures. The law states, "...an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate action. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action."

Signature: _______________________________________

Title: ____________________________________________

Company Name: __________________________________

Date: ___________________________________________
Certificate of Non-Segregated Facilities

The bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any locations, under his control, where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term “Segregated Facilities” means any waiting rooms, work areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreations or entertainment areas, transportation, and housing facilities provided for employees which 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. The bidder further agrees that (except where he has obtained identical certifications from subcontractors for specific time periods) he will obtain the award of subcontractors exceeding $10,000 which are not exempt from the provisions of Equal Opportunity Clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirements for certifications of no segregated facilities. A certification of no segregated facilities must be submitted prior to the award of a subcontract exceeding Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).

(Date) __________________________ (Signature of Bidder)

(Address)
EMPLOYMENT
(820 ILCS 265/) Substance Abuse Prevention on Public Works Projects Act.

(820 ILCS 265/1)
Sec. 1. Short title. This Act may be cited as the Substance Abuse Prevention on Public Works Projects Act.
(Source: P.A. 95-635, eff. 1-1-08.)

(820 ILCS 265/5)
Sec. 5. Definitions. As used in this Act:
"Accident" means an incident caused, contributed to, or otherwise involving an employee that resulted in death, personal injury, or property damage and that occurred while the employee was performing work on a public works project.
"Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and isopropanol.
"Alcohol concentration" means: (1) the number of grams of alcohol per 210 liters of breath; or (2) the number of grams of alcohol per 100 milliliters of blood.
"Drug" means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act for which testing is required by an employer under its substance abuse prevention program under this Act. The term "drug" includes prescribed medications not used in accordance with a valid prescription.
"Employee" means a laborer, mechanic, or other worker employed in any public works by anyone under a contract for public works.
"Employer" means a contractor or subcontractor performing a public works project.
"Public works" and "public body" have the meanings ascribed to those terms in the Prevailing Wage Act.
(Source: P.A. 95-635, eff. 1-1-08.)

(820 ILCS 265/10)
Sec. 10. Substance abuse prohibited. No employee may use, possess, distribute, deliver, or be under the influence of a drug, or use or be under the influence of alcohol, while performing work on a public works project. An employee is considered to be under the influence of alcohol for purposes of this Act if the alcohol concentration in his or her blood or breath at the time alleged as shown by analysis of the employee's blood or breath is at or above 0.02.
Sec. 15. Substance abuse prevention programs required.

(1) Before an employer commences work on a public works project, the employer shall have in place a written program which meets or exceeds the program requirements in this Act, to be filed with the public body engaged in the construction of the public works and made available to the general public, for the prevention of substance abuse among its employees. The testing must be performed by a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services. At a minimum, the program shall include all of the following:

(A) A minimum requirement of a 9 panel urine drug test plus a test for alcohol. Testing an employee's blood may only be used for post-accident testing, however, blood testing is not mandatory for the employer where a urine test is sufficient.

(B) A prohibition against the actions or conditions specified in Section 10.

(C) A requirement that employees performing the work on a public works project submit to pre-hire, random, reasonable suspicion, and post-accident drug and alcohol testing. Testing of an employee before commencing work on a public works project is not required if the employee has been participating in a random testing program during the 90 days preceding the date on which the employee commenced work on the public works project.

(D) A procedure for notifying an employee who violates Section 10, who tests positive for the presence of a drug in his or her system, or who refuses to submit to drug or alcohol testing as required under the program that the employee may not perform work on a public works project until the employee meets the conditions specified in subdivisions (2)(A) and (2)(B) of Section 20.

(2) Reasonable suspicion testing. An employee whose supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or a drug is subject to discipline up to and including suspension, and be required to undergo an alcohol or drug test. "Reasonable suspicion" means a belief, based on behavioral observations or other evidence, sufficient to lead a
prudent or reasonable person to suspect an employee is under the influence and exhibits slurred speech, erratic behavior, decreased motor skills, or other such traits. Circumstances, both physical and psychological, shall be given consideration. Whenever possible before an employee is required to submit to testing based on reasonable suspicion, the employee shall be observed by more than one supervisory or managerial employee. It is encouraged that observation of an employee should be performed by a supervisory or managerial employee who has successfully completed a certified training program to recognize drug and alcohol abuse. The employer who is requiring an employee to be tested based upon reasonable suspicion shall provide transportation for the employee to the testing facility and may send a representative to accompany the employee to the testing facility. Under no circumstances may an employee thought to be under the influence of alcohol or a drug be allowed to operate a vehicle or other equipment for any purpose. The employee shall be removed from the job site and placed on inactive status pending the employer's receipt of notice of the test results. The employee shall have the right to request a representative or designee to be present at the time he or she is directed to provide a specimen for testing based upon reasonable suspicion. If the test result is positive for drugs or alcohol, the employee shall be subject to termination. The employer shall pay all costs related to this testing. If the test result is negative, the employee shall be placed on active status and shall be put back to work by the employer. The employee shall be paid for all lost time to include all time needed to complete the drug or alcohol test and any and all overtime according to the employee's contract.

(3) An employer is responsible for the cost of developing, implementing, and enforcing its substance abuse prevention program, including the cost of drug and alcohol testing of its employees under the program, except when these costs are covered under provisions in a collective bargaining agreement. The testing must be performed by a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services. The contracting agency is not responsible for that cost, for the cost of any medical review of a test result, or for any rehabilitation provided to an employee.

(Source: P.A. 95-635, eff. 1-1-08.)
Sec. 20. Employee access to project.
(1) An employer may not permit an employee who violates Section 10, who tests positive for the presence of a drug in his or her system, or who refuses to submit to drug or alcohol testing as required under the employer's substance abuse prevention program under Section 15 to perform work on a public works project until the employee meets the conditions specified in subdivisions (2)(A) and (2)(B). An employer shall immediately remove an employee from work on a public works project if any of the following occurs:

(A) The employee violates Section 10, tests positive for the presence of a drug in his or her system, or refuses to submit to drug or alcohol testing as required under the employer's substance abuse prevention program.

(B) An officer or employee of the contracting agency, preferably one trained to recognize drug and alcohol abuse, has a reasonable suspicion that the employee is in violation of Section 10 and requests the employer to immediately remove the employee from work on the public works project for reasonable suspicion testing.

(2) An employee who is barred or removed from work on a public works project under subsection (1) may commence or return to work on the public works project upon his or her employer providing to the contracting agency documentation showing all of the following:

(A) That the employee has tested negative for the presence of drugs in his or her system and is not under the influence of alcohol as described in Section 10.

(B) That the employee has been approved to commence or return to work on the public works project in accordance with the employer's substance abuse prevention program.

(C) Testing for the presence of drugs or alcohol in an employee's system and the handling of test specimens was conducted in accordance with guidelines for laboratory testing procedures and chain-of-custody procedures established by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services.

(3) Upon successfully completing a rehabilitation program, an employee shall be reinstated to his or her former employment status if work for which he or she is qualified exists.

(Source: P.A. 95-635, eff. 1-1-08.)
Sec. 25. Applicability. This Act applies to a contract to perform work on a public works project for which bids are opened on or after January 1, 2008, or, if bids are not solicited for the contract, to a contract to perform such work entered into on or after January 1, 2008. The provisions of this Act apply only to the extent there is no collective bargaining agreement in effect dealing with the subject matter of this Act.
(Source: P.A. 95-635, eff. 1-1-08.)

Sec. 99. Effective date. This Act takes effect January 1, 2008.
(Source: P.A. 95-635, eff. 1-1-08.)
L.C.H.A. INSTRUCTIONS TO BIDDERS

A. Form of Proposal

All proposals shall be subject to all requirements of these Specifications and Instructions. Proposals are to be prepared in duplicate, one to be submitted to the Lake county Housing Authority, and one to be retained by the bidder for his records. Proposal documents shall be sealed in an envelope, which shall be clearly labeled with the words “PROPOSAL FOR (work item)” and shall show the name of the bidder and the date of opening.

Bidder must use enclosed bid form. No bid shall be considered to have been received unless it is submitted on the bid form enclosed.

B. Non-Collusive Affidavit

Each person submitting a proposal shall execute an affidavit in the form provided by the Lake County Housing Authority, to the effect that he has not conspired with any person, firm or corporation in regard to any proposal submitted and he is not barred from bidding as a result of a violation of either Section 33E-3 or 33E-4 of the Illinois Criminal Code of 1961.

C. Time for Receiving Proposals

Proposals received prior to the time of opening will be securely kept, unopened. The Officer whose duty it is to open them will decide when the specified time has arrived. No proposal received thereafter will be considered, except that when a proposal has arrived by mail after the time fixed for opening but before the award is made, and it is shown to the satisfaction of the Officer authorized to make the award that the non-arrival on time was due solely to delay in the mails for which the bidder was not responsible, such proposals will be received and considered. No responsibility will be attached to an officer for the premature opening of a proposal not properly addressed and identified. Telegraphic and fax proposals will not be considered; but, modification by telegraph or fax of proposals already submitted will be considered if received prior ro the hour set for opening and written confirmation of such modification over the signature of the bidder is placed in the mail postmarked prior to the time set for opening. Bidders are cautioned that, while telegraphic and fax modifications of proposals may be received as provided above, such modifications, if not explicit and, if in any sense, subject to misinterpretation, shall make the proposal so modified or amended subject to rejection.
D. **Opening of Proposals**

At the time and place fixed for opening of proposals, every proposal received within the time fixed for receiving proposals will be opened and publicly read aloud, regardless of any irregularities therein. Bidders and other persons properly interested may be present in person or by representative.

E. **Withdrawal of Proposals**

Proposals may be withdrawn by written telegraphic or Fax request dispatched by the bidder in time for delivery in the normal course of business prior to the time fixed for opening; provided, that written confirmation of any telegraphic or fax withdrawal over the signature of the bidder is placed in the mail postmarked prior to the time set for proposal opening. Negligence on the part of the bidder in preparing his proposal confers no right of withdrawal or modification of his proposal after such proposal has been opened.

No proposal shall be withdrawn for a period of thirty (30) days subsequent to the opening of the proposals without the consent of the Lake County Housing Authority.

F. **Award of Contract/Rejection of Proposals**

The contract will be awarded to the responsible bidder submitting the lowest proposal complying with the Terms and Conditions set forth in the bid invitation package. The Lake County Housing Authority, however, reserves the right to reject any and all proposals and to waive any informality in proposals received whenever such rejection or waiver is in the interest of the Lake County Housing Authority. The Lake County Housing Authority reserves the right to reject the proposal of any bidder who has previously failed to perform properly on contracts of a similar nature or who is not in a position to perform the contract, or who has habitually and without just cause neglected the payment of bills or otherwise disregarded his obligations to material suppliers or employees.

G. **Use of Lead Based Paint Prohibited**

Any contractor awarded a contract for modernization shall comply with 24 CFR Part 35 which prohibits the use of lead based paint in any Lake County Housing Authority building or dwelling.
NON-COLLABORATIVE AFFIDAVIT
(PRIME BIDDER)

State of ILLINOIS ss

County of LAKE ss

__________________________________________, being first duly sworn
deposes and says:
That he is
(titile of affiant ie: partner; title of office; individual owner)
of
(company name)
the party making the foregoing proposal or bid; that such proposal or bid is
genuine and not collusive or sham; that said bidder has not colluded,
conspired, connived or agreed, directly or indirectly, with any bidder or
person, put in a sham bid or to refrain from bidding, and has not in any
manner, directly or indirectly, sought by agreement of collusion, or
communication or conference, with any person, to fix the bid price of
affiant or of any other bidder, or to fix any overhead, profit or cost
element of said bid price, or of that or any other bidder, or to secure any
of said bid price, or of that or any other bidder, or to secure any
advantage against the Housing Authority of the County of Lake, Illinois, or
any person interested in the proposed contract; and that all statements in
said proposal or bid are true. The party making the foregoing proposal or
bid will comply with all applicable State of Illinois laws and regulations
and certifies that he is not barred from bidding on the Contract as a result
of a violation of either Section 33E-3 or 33E-4 of the Illinois Criminal
Code of 1961 as amended by Public Act 85-1295 prohibiting "Bid-rigging" or
"Bid rotating".

__________________________________________  Signature of bidder, if
bidder is an individual;

__________________________________________  Signature of partner, if
bidder is a partnership;

__________________________________________  Signature of officer, if
bidder is a corporation.

Subscribed and sworn to before me

this _______ day of ______________________, 20

Notary Public

My commission expires ______________________, 20
General Conditions for Construction Contracts - Public Housing Programs

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

Applicability. This form is applicable to any construction/development contract greater than $100,000.

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.36, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HA's would be unable to enforce their contracts. Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

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

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1. Definitions

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

2. Contractor’s Responsibility for Work

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

3. Architect’s Duties, Responsibilities, and Authority

(a) The Architect for this contract, and any successor, shall
be designated in writing by the Contracting Officer.
(b) The Architect shall serve as the Contracting Officer’s technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the Changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) changes any of the other express terms or conditions of the contract.

(c) The Architect’s duties and responsibilities may include but shall not be limited to:

(1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor’s designated representative at the site;
(2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;
(3) Reviewing and making recommendations with respect to - (i) the Contractor’s construction progress schedules; (ii) the Contractor’s shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor’s price breakdown and progress payment estimates; and,
(4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

4. Other Contracts

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

**Construction Requirements**

5. Pre-construction Conference and Notice to Proceed

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

6. Construction Progress Schedule

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

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor’s right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

7. Site Investigation and Conditions Affecting the Work

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

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Previous editions are obsolete  Page 3 of 19  form HUD-5370 (1/2014)  Replaces form HUD-5370-A
reasonably ascertainable from an inspection of the site, including all exploratory work done by the PHA, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the PHA.

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

8. Differing Site Conditions

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor’s risk, until the Contracting Officer has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor’s cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the PHA within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowable if made after final payment under this contract.

9. Specifications and Drawings for Construction

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of discrepancy between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words “directed”, “required”, “ordered”, “designated”, “prescribed”, or words of like import are used, it shall be understood that the “direction”, “requirement”, “order”, “designation”, or “prescription”, of the Contracting Officer is intended and similarly the words “approved”, “acceptable”, “satisfactory”, or words of like import shall mean “approved by”, or “acceptable to”, or “satisfactory to” the Contracting Officer, unless otherwise expressly stated.

(c) Where “shown”, “indicated”, “detailed”, or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word “provided” as used herein shall be understood to mean “provide complete in place” that is “furnished and installed”.

(d) “Shop drawings” means drawings, submitted to the PHA by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The PHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor’s approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the PHA’s reasons therefore. Any work done before such approval shall be at the Contractor’s risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be
required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

(h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the PHA and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.

(i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

10. As-Built Drawings

(a) “As-built drawings,” as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. “As-built drawings” shall be synonymous with “Record drawings.”

(b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent as-built drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.

(c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all as-built drawings prepared by subcontractors are submitted to the Contracting Officer.

11. Material and Workmanship

(a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) Approval of equipment and materials.

(1) The Contractor shall obtain the Contracting Officer’s approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer’s approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor’s expense, with all shipping charges prepaid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor’s name, and the identification of the construction project for which the material or product is intended to be used.

(3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.

(4) Approval of a sample shall not constitute a waiver of the PHA right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.

(5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of retesting materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.

(6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.

(c) Requirements concerning lead-based paint. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

12. Permits and Codes

(a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any
waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled "Changes herein to conform to the code or regulation.

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

13. Health, Safety, and Accident Prevention

(a) In performing this contract, the Contractor shall:
   (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
   (2) Protect the lives, health, and safety of other persons;
   (3) Prevent damage to property, materials, supplies, and equipment; and,
   (4) Avoid work interruptions.

(b) For these purposes, the Contractor shall:
   (1) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and
   (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904

(d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor’s representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Contractor shall be responsible for its subcontractors’ compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the PHA, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

14. Temporary Heating

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

15. Availability and Use of Utility Services

(a) The PHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the PHA or, where the utility is produced by the PHA, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the PHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

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

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.

(b) The Contractor shall only remove trees when specifically authorized to do so, and avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(c) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.

(d) The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.

(e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.
(f) New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.

(g) No structural members shall be altered or in any way weakened without the written authorization of the Contracting Officer, unless such work is clearly specified in the plans or specifications.

(h) If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refinish or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refinish or reconstruction is specified in the plans or specifications.

(i) The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work.

(j) The Contractor shall indemnify and save harmless the PHA from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the PHA may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

(k) The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

17. Temporary Buildings and Transportation of Materials

(a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the PHA. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

18. Clean Air and Water

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

19. Energy Efficiency

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

20. Inspection and Acceptance of Construction

(a) Definitions. As used in this clause -

1. “Acceptance” means the act of an authorized representative of the PHA by which the PHA approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.

2. “Inspection” means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.

3. “Testing” means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to PHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) PHA inspections and tests are for the sole benefit of the PHA and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the PHA after acceptance of the completed work under paragraph (j) below.

(d) The presence or absence of the PHA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer’s written authorization. All instructions and approvals with respect to the work shall be given to the Contractor by the Contracting Officer.

(e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The PHA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The PHA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.
(f) The PHA may conduct routine inspections of the construction site on a daily basis.

(g) The Contractor shall, without charge, replace or correct work found by the PHA not to conform to contract requirements, unless the PHA decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(h) If the Contractor does not promptly replace or correct rejected work, the PHA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.

(i) If any work requiring inspection is covered up without approval of the PHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the PHA considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(j) The Contractor shall notify the Contracting Officer, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Architect determines that the state of preparedness is as represented, the PHA will promptly arrange for the inspection. Unless otherwise specified in the contract, the PHA shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the PHA's right under any warranty or guarantee.

21. Use and Possession Prior to Completion

(a) The PHA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the PHA intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The PHA's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the PHA has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the PHA's possession or use, notwithstanding the terms of the clause entitled Permits and Codes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas occupied without proper remuneration therefore. If prior possession or use by the PHA delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

22. Warranty of Title

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

23. Warranty of Construction

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of _______ (one year unless otherwise indicated) from the date of final acceptance of the work. If the PHA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the PHA takes possession.

(b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—

(1) The Contractor's failure to conform to contract requirements;

(2) Any defects of equipment, material, workmanship or design furnished by the Contractor.

(c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for (one year unless otherwise indicated) from the date of repair or replacement.

(d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.

(e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the PHA shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed in writing, for the benefit of the PHA; and,

(3) Enforce all warranties for the benefit of the PHA.

(g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.
(h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the repair of any damage that results from any defect in PHA furnished material or design.

(i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and (c) above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to its obligation other than specifically to correct the work.

(j) This warranty shall not limit the PHA’s rights under the Inspection and Acceptance of Construction clause of this contract with respect to latent defects, gross mistakes or fraud.

24. Prohibition Against Liens

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

Administrative Requirements

25. Contract Period

The Contractor shall complete all work required on this contract within calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the Contracting Officer.


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

27. Payments

(a) The PHA shall pay the Contractor the price as provided in this contract.

(b) The PHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The PHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.

(c) Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Contracting Officer, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining progress payments. The breakdown shall be approved by the Contracting Officer and must be acceptable to HUD. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract.

(d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the contract price. Such estimates shall be submitted not later than ________ days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.

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

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

Name: _______________________________________

Title: _________________________________________

Date: ________________

(f) Except as otherwise provided in State law, the PHA shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the contract; except, that if upon completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect, determines that the Contractor’s performance and progress are satisfactory, the PHA may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor’s performance and progress are unsatisfactory, the PHA shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.

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

(h) All material and work covered by progress payments made shall, at the time of payment become the sole property of the PHA, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the PHA to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the PHA in the course of their employment, the Contractor shall restore such damaged work without cost to the PHA and to seek redress for its damage only from those who directly caused it.

(i) The PHA shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the PHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor’s claim to amounts payable under this contract has been assigned.

(j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.

(k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bonds furnished under this contract.

28. Contract Modifications

(a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.

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

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

29. Changes

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

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

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

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

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

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

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

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the PHA.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer’s failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.

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

31. Disputes

(a) “Claim,” as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(b) Except for disputes arising under the clauses entitled Labor Standards - Davis Bacon and Related Acts, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(c) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.

(d) The Contracting Officer shall, within 60 days after receipt of the request, decide the claim or notify the Contractor of the date when such action will be taken.

(e) The Contracting Officer’s decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA’s policy and procedures, or (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.

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

32. Default

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to
proceed with the work (or separable part of the work) that has been delayed. In this event, the PHA may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor’s refusal or failure to complete the work within the specified time, whether or not the Contractor’s right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

(b) The Contractor’s right to proceed shall not be terminated or the Contractor charged with damages under this clause if—

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the PHA or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the PHA, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.

(c) If, after termination of the Contractor’s right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the PHA.

33. Liquidated Damages

(a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to the PHA as liquidated damages, the sum of $_______Contracting Officer insert amount] for each day of delay. If different completion dates are specified in the contract for separate parts or stages of the work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that the Contractor’s delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due the PHA. The Contractor remains liable for damages caused other than by delay.

(b) If the PHA terminates the Contractor’s right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the PHA in completing the work.

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

34. Termination for Convenience

(a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.

(b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.

(c) The Contracting Officer will act on the Contractor’s claim within days (60 days unless otherwise indicated) of receipt of the Contractor’s claim.

(d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

35. Assignment of Contract

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

36. Insurance

(a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:

(1) Workers’ Compensation, in accordance with state or Territorial Workers’ Compensation laws.

(2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than$_______500,000}
37. Subcontracts

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

(b) The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

(c) The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them for the acts or omissions of persons directly employed by the Contractor.

(d) The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract, as applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the PHA or between the subcontractor and HUD.

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

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

(a) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women’s business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

39. Equal Employment Opportunity

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

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

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

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

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

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

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

(g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

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

(j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

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

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

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

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

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

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

(g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
41. Interest of Members of Congress

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

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

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

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

(a) The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

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

44. Royalties and Patents

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

45. Examination and Retention of Contractor's Records

(a) The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, exceptions, and transcriptions.

(b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. “Subcontract,” as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the PHA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

46. Labor Standards - Davis-Bacon and Related Acts

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

(a) Minimum Wages.

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

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

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

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

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

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

(4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

(c) Payrolls and basic records.

(1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

(ii) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;

(B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

(C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the “Statement of Compliance” required by subparagraph (c)(2)(ii) of this clause.

(iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) (1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under...
the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

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

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.
47. Non-Federal Prevailing Wage Rates

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

   (1) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;

(b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or

(c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.


(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.