



REQUEST FOR PROPOSALS

For

**New Affordable Home Construction Services
for Villas de Fortuna, Sunflower and Palm Lake
For**

**HOUSING AUTHORITY OF THE
CITY OF SAN ANTONIO, TEXAS
AND
AFFILIATED ENTITIES**

RFP#: 2009-909-23-5071

Prepared by:

Department of Procurement
of
The San Antonio Housing Authority
818 South Flores Street
San Antonio, Texas 78204

President and CEO David Nisivoccia

Section A

Background Information and Evaluation

I. Background Information:

Founded in 1937, the San Antonio Housing Authority (SAHA) has committed more than 80 years to building and maintaining affordable housing for the residents of San Antonio.

SAHA is one of 39 public housing authorities throughout the nation with the Moving-to-Work (MTW) designation, which provides agencies with the flexibility to design and test innovative approaches to enhance the agency's programs.

SAHA provides housing assistance to more than 65,000 children, adults and seniors through its Public Housing, Housing Choice Voucher and Mixed-Income housing programs. As a compassionate agency, we understand safe and quality affordable housing is the foundation to success, and we have the privilege of managing nearly 70 public housing communities, 46 mixed-income apartment complexes, known as Beacon Communities, and administering nearly 14,000 rental vouchers throughout San Antonio.

SAHA is one of the largest housing authorities in the state of Texas and has an existing team of experienced staff and consultants assembled to facilitate the redevelopment of its properties. SAHA is committed to creating dynamic communities where people thrive and spurs economic growth through the awarding of local contractors with housing development projects, obtaining real estate and administering rental subsidies with private property owners.

SAHA is managed by President and CEO David Nisivoccia with an innovative executive team and with the guidance of seven Board of Commissioners appointed by the Mayor of San Antonio. The SAHA Board of Commissioners, upon the advice of the President and CEO, approves all major policy and contractual decisions. The President and CEO is then charged with implementing these actions.

SAHA is a unit of government and its functions are essential governmental functions. The property of SAHA is used for essential public and governmental purposes and is exempt from all taxes, including sales tax on all its purchases of supplies and services.

SAHA enters into and executes contracts and other instruments that are necessary and convenient to the exercise of its powers. SAHA maintains contractual arrangements with United States Department of Housing and Urban Development (HUD) to manage and operate its low rent public housing program and administers the Housing Assistance Payments Programs. SAHA programs are federally funded along with development and modernization grants and rental income.

SAHA has created a number of affiliated public facility corporations (PFCs) pursuant to Chapter 303 of the Texas Local Government Code (the Public Facility Corporation Act). In some instances, these PFCs own projects. In other cases, PFCs or other related entities serve as partners in partnerships that have been awarded low-income housing tax credits. SAHA's affiliated entities own and operate more than 3,000 units of affordable housing.

SAHA staff also manages the San Antonio Housing Finance Corporation (Finance Corporation), which is primarily a conduit issuer of bonds for consultants of affordable housing projects. The Finance Corporation was created pursuant to Chapter 394 of the Texas Local Government Code (the Texas Housing Finance Corporations Act). When used, SAHA shall include its affiliated entities.

As a part of our social mission and federal mandate, SAHA is committed to providing economic, training and educational opportunities to low-income individuals in the communities we serve. All consultants are required to recruit and hire low-income individuals for new positions and provide training and educational opportunities to the greatest extent feasible for these individuals.

II. Development Opportunities: SAHA has approval from the U.S. Department of Housing and Urban Development (HUD) to rebuild four single-family home projects known as Mirasol Homes and rebranded as the Westside Reinvestment Initiative (WRI). SAHA has already completed the construction and sale of 40 affordable single-family homes in the Blueridge Subdivision.

For this proposal, SAHA's intent is to fund construction of approximately forty-eight (48) new income-restricted single-family homes ("Project"), including twenty-eight (28) in the Villas de Fortuna Subdivision, nine (9) in the Sunflower Subdivision and eleven (11) in the Palm Lake Subdivision, the remaining three of the four Mirasol single-family neighborhoods. The homes will be built on 48 lots owned by SAHA or one of its affiliated entities as shown on Attachment A - Villas de Fortuna, Sunflower and Palm Lake Neighborhood Site Plans.

SAHA is seeking a qualified and experienced contractor with the necessary resources and capabilities to construct multiple homes simultaneously using the contractor's own home designs and specifications that meet SAHA's Minimum Design Requirements (Attachment B) and the Universal Design Requirements (Attachment B). SAHA envisions that the Villas de Fortuna, Sunflower and Palm Lake developments will ultimately consist of quality affordable single-family homes supporting redevelopment of the neighborhoods.

SAHA anticipates the build-out of the project should take no more than three (3) years depending on market demand. SAHA's intention is to release seven (7) lots at a time however; the decision to do so and scheduling of the additional three (3) phases with the selected Contractor will be contingent on successful performance by the selected Contractor and market demand for the homes. The Contractor will be expected to complete each phase within 6 months of the Notice to Proceed for that phase.

SAHA will handle all marketing and sales of the homes. Of those homes, it is SAHA's intention that forty-one (41) homes will be sold to buyers with incomes up to 100% of the Adjusted Median Income (AMI) per the U.S. Housing and Urban Development Adjusted Income Limits for San Antonio in effect at the time of sale and seven (7) of the homes will be sold to buyers earning up to 115% of the AMI.

III. Requirements:

A. Home Design:

Contractor shall provide copies of their Plans and Specifications on 8-1/2"X11" paper, including interior finish-out schedules and an elevation for each side, for each of the following home sizes with their proposal submission:

- **3 bedroom, 2.5 bath, one or two story homes with single-car attached garage.** A minimum of three floor plans with at least 1,250 sf of conditioned space each must be submitted.
- **2 bedroom, 2 bath, one story homes with single-car attached garage.** A minimum of two floor plans with at least 1,100 sf of conditioned space must be submitted.

A minimum of **two distinctively different facades** with **at least three different exterior color schemes** each must be provided for every plan to insure variety in the neighborhood. The styles should be consistent with the existing homes in the three neighborhoods. SAHA reserves the right to assign plans to specific lots to provide a cohesive look to the neighborhood.

SAHA anticipates the project will include approximately 34 three-bedroom homes and 14 two-bedroom homes; however, SAHA reserves the right to adjust the mix and number of homes in each phase to meet market demands.

All Plans and Specifications provided by the Contractor must meet or exceed SAHA Minimum Design Requirements (Attachment B) and the Universal Design Requirements (Attachment C). After the Contractor has been evaluated as the lead Respondent, SAHA will consider substitutions to the Minimum Design Requirements by the selected Contractor if the changes improve the functionality, appearance, construction cost or sustainability of the home. Those changes must be specifically approved by SAHA and its consultants. Any deviations or substitutions that were not approved by SAHA may result in the Contractor being required to bring the house into conformance with the approved Plans and Specifications.

B. Warranties: The Contractor must provide the following warranties:

- 2 years on workmanship and materials, including labor and installation
- 2 years for mechanical delivery systems, including HVAC, plumbing and electrical
- 10 years for major structural components including, foundation
- All manufacturers' warranties on components of the construction, including materials, appliances and fixtures

C. Project Cost: To maintain the affordability of the homes, the total contract costs (house construction and all site improvements, including site work, landscaping, fencing, utilities and all other costs necessary) cannot exceed the following:

The maximum bid for 48 homes is \$7,344,000.

Since pricing will be an important scoring factor, Respondents are encouraged to submit the lowest bid possible while meeting the quality, design standards and schedule requirements.

D. Lot Conditions: The former homes on the 28 Villas de Fortuna lots have already been demolished. Demolition of the existing homes on the Sunflower and Palm Lake lots will be completed before the lots are assigned to the Contractor. The lots have been platted and zoned, addresses have been assigned and electrical and water services exist at each parcel. (Services are disconnected and capped during the demolition phase so the selected Contractor will need to verify these are still in good operating condition.) Additional information on utilities follows:

City sidewalks, curbs and approaches – All sites have sidewalks, curbs and driveway approaches installed per city standards. Contractor is responsible for repair or replacement of any damaged sidewalks, curbs, driveway approaches or other public infrastructure.

Impact Fees – No additional impact fees will be required.

Water Utility – Water meters were pulled. Water meter boxes are typically located at the property line in close proximity to the driveway apron. However, Contractor should field verify. Water taps are in place from the main line to the meter box. Contractor should plan on installing the water line from the meter box to the house.

Sewer – Typically it is located in the front yard, toward the middle of the former home footprint. Clean-outs may be located there, but digging may be needed to find them. It is possible the clean-outs were damaged when the foundation was demolished. Contractor must field verify. The bids should include the cost to run pipe from the existing sewer line to the house.

Electrical – Underground transformers are in place. Existing conduit runs from the former house site to the transformer. Electrical cables have been removed from conduit by CPS Energy. Respondents should include the cost of extending existing conduit to the new house.

E. Timeline:

NON-MANDATORY VIRTUAL PRE-PROPOSAL MEETING	October 20, 2020 at 2:00 P.M.
LAST DATE FOR QUESTIONS	October 30, 2020 at 3:00 P.M.
PROPOSAL DUE DATE	November 10 at 2:00 P.M. SAHA Procurement Dept. 818 S. Flores, San Antonio, TX 78204
ANTICIPATED APPROVAL BY THE BOARD	January/February, 2021

SAHA reserves the right to modify this schedule at its discretion. Notification of changes in connection with this solicitation will be made available to all interested parties via an emailed Addendum and by posting on SAHA’s website and other websites.

F. Conditions:

1. **Reservation of Rights:** SAHA reserves the right to:
 - a. Not award or proceed with construction on any approved plans.
 - b. To award to more than one Respondent.
 - c. To require each selected Contractor to complete one or more of the units awarded to them on a lot specified by SAHA for use as a model home.
 - d. To adjust the approved project schedule for construction based upon the rate of sale of the homes.

2. **Construction Financing:** The Respondent firm must be able to demonstrate its financial capacity and viability to support the project and obtain and maintain any financing required to construct the homes. Although it is anticipated that seven (7) lots will be released at a time, sales of the homes may justify different scheduling and lot releases in each phase by SAHA. Each phase will require separate Payment and Performance bonds for the total construction cost of the released lots.

Once a Notice to Proceed has been issued, the selected Contractor will be allowed to make monthly draws based on completed work in accordance with the approved Schedule of Values with a 30 day net at each draw and 10% retainage. Final payment will be made upon acceptance by SAHA of each completed house.

3. **Wage Rates:** Wage requirements of the Davis-Bacon and related acts will not apply to this project.

- 4. Site Conditions:** Contractor shall provide water and power for construction, sanitation for on-site workers and security for the jobsite, materials and tools. Builder's risk insurance will be required with the Contractor responsible for the deductible. Normal construction hours are Monday-Friday, 7 am to 6 pm. Work on Saturday, Sunday or holidays must be pre-approved by SAHA's Project Manager.

III. Evaluation: Each proposal will be evaluated based upon the following information and criteria:

A. Evaluation Process: SAHA shall select a minimum of a three-person panel, using the criteria established below, to evaluate each of the proposals submitted in response to this RFP to determine the Respondent's level of qualifications. SAHA will consider capabilities or advantages that are clearly described in the proposal that may be confirmed by verbal presentations, site visits and/or references contacted by SAHA. All proposals will be evaluated as to their overall value to SAHA.

- 1. Restrictions:** All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a Respondent will be excluded from participation on SAHA's evaluation panel. Similarly, all persons having ownership interest in and/or a contract with a Respondent will also be excluded.
- 2. Initial Evaluation-Responsiveness:** Each proposal received will first be evaluated for responsiveness (i.e., meeting the minimum requirements as stated in the RFP).
- 3. Evaluation Criteria:** The evaluation panel will use the following criteria to evaluate each proposal:

5	Excellent	4	Above Average
3	Average	2	Below Average
1	Poor	0	Non Responsive

Continues on next page.

No.	Points	Weighted Average	CRITERION DESCRIPTION
1	0-5	20%	Experience: The firm's prior experience building single-family or duplex market rate and/or affordable homes
2	0-5	15%	Project Management Plan: Proposed project approach and schedule including proposed construction time per home, approach to subcontracting and description of supervision to be provided
3	0-5	15%	Capacity/Financial Viability: The firm's financial and bonding capacity to undertake ongoing construction of houses
4	0-5	40%	Cost proposal: The overall cost to SAHA to build the homes per the Contractor's plans that meet SAHA's requirements
5	0-5	5%	Strength of the Contractor's Section 3 Utilization Plan
6	0-5	5%	Strength of the Contractor's S/W/MBE Utilization Plan
		100%	Total Points for Criteria
		MAX. POINTS	HUD SECTION 3
1		5	Section 3 Preference: A firm may qualify for Section 3 status for up to an additional 5 points.
a		5	Category I: As detailed in Exhibit D
b		4	Category II: As detailed in Exhibit D
c		3	Category III: As detailed in Exhibit D
d		2	Category IV: As detailed in Exhibit D

- 4. Competitive Range:** Once a competitive range is established from the proposals submitted, SAHA reserves the right to require Respondents within the competitive range to make a presentation to the evaluation committee. Presentations, if requested, shall be a factor in the award recommendation.

III. Minimum Qualifications: Respondents shall have:

- demonstrated experience in the volume construction of single family or duplex homes
- acted as the principal homebuilder on multiple single family or duplex homes in the past 3 years
- financial and organizational capacity to have multiple homes under construction at one time (5 or more)
- had multiple homes under construction simultaneously (5 or more) in each of the 3 previous years.

End Section A

Section B
Instructions to Respondents

- I. **Point of Contact:** The point of contact for purposes of obtaining the Request for Proposal and to submit responses is:

POINT OF CONTACT	Charles Bode, Senior Contract Specialist San Antonio Housing Authority 818 S. Flores San Antonio, TX 78204 Phone: (210) 477-6703 E-mail: charles_bode@saha.org
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The Request for Proposals can be obtained by calling 210-477-6059 or online at

www.saha.org

<https://ha.internationaleprocurement.com>

<http://www.publicpurchase.com>

All Addenda will be posted on SAHA's website www.saha.org, <https://ha.internationaleprocurement.com> and www.publicpurchase.com. Any changes that are issued before the proposal submission deadline shall be binding upon all prospective Respondents.

Respondents shall address all communication and correspondences pertaining to this RFP process to only the Contact person identified above. Respondents must not inquire or communicate with any other SAHA staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to comply with this requirement is cause for a proposal to be disqualified. During the RFP solicitation process, SAHA will not conduct any ex parte conversations which may give one prospective proposer an advantage over other prospective Respondents.

- II. **Prohibitions:** Contact with members of the SAHA Board of Commissioners, or SAHA officers and employees other than the contact person listed herein, by any prospective Proposer, after publication of the RFP and prior to the execution of a contract with the successful proposer(s) could result in disqualification of your proposal. In fairness to all prospective proposer(s) during the RFP process, if SAHA meets in person with anyone representing a potential provider of these services to discuss this RFP other than at the pre-submittal meeting, an addendum will be issued to address all questions so as to insure no Proposer has a competitive advantage over another. This does not exclude meetings required to conduct business not related to the RFP, or possible personal presentations after written qualifications have been received and evaluated.

III. Non-Mandatory Pre-Proposal Conference: A virtual pre-proposal conference will be held with Google Meets to assist Respondents in understanding the RFP documents and required submittal documents. See Attachment E for instructions. At this conference, SAHA will conduct an overview of the RFP documents, including attachments. Any questions must be submitted in writing (e-mail is acceptable) to the contact person listed herein and will be answered in an addendum.

IV. SAHA'S Reservation of Rights: SAHA reserves the right, without liability, to:

- reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by SAHA to be in its best interests.
- award a contract pursuant to this RFP
- terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 30 days written notice to the successful Respondent.
- determine the days, hours and locations in which the services are performed in this RFP.
- retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals without the written consent from SAHA.
- negotiate the fees proposed by all Respondents. If such negotiations are not, in the opinion of SAHA successfully concluded within a reasonable timeframe as determined by SAHA, SAHA shall retain the right to end such negotiations.
- reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to rejection of incomplete proposals and/or proposals offering alternate or non-requested services and from Respondents deemed non-responsive and non-responsible.
- prohibit any further participation by a Respondent or reject any proposal submitted that does not conform to any of the requirements detailed herein. Each prospective Respondent further agrees that he/she will inform SAHA in writing within five (5) days of the discovery of any item that is issued thereafter by SAHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve SAHA, but not the prospective Respondents, of any responsibility pertaining to such issue.
- award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued.
- to advertise for new proposals or to proceed to do the work otherwise if proposals are rejected.
- cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- reduce or increase estimated or actual quantities in whatever amount necessary if funding is not available, legal restrictions are placed upon the expenditure of monies for this category of service or supplies, or SAHA's requirements in good faith change after award of the contract.
- make an award to more than one Respondents based on ratings or to make an award with or without negotiations or Best and Final Offers (BAFO)
- establish a competitive range for responses based on the initial scores and to require presentations by the Respondents within the competitive range.
- require additional information from all Respondents to determine level of responsibility. Such information shall be submitted in the form and time frame required by SAHA.

- amend the terms of the contract any time prior to contract execution.
- contact any individuals, entities, or organizations that have had a business relationship with the Respondents regardless of their inclusion in the reference section of the proposal submittal.

V. Timely Submissions: Late submissions will not be accepted. Proposals received prior to the submittal deadline shall be securely kept, unopened, by SAHA. No proposal received after the designated deadline shall be considered. Respondents are cautioned that any proposal submittal that is time-stamped as being received by SAHA after the exact time set as the deadline for the receiving of proposals shall not be considered. Any such proposal inadvertently opened shall be ruled to be invalid. No responsibility will attach to SAHA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and identified.

VI. Pre-Qualification: Respondents are not required to pre-qualify to submit a proposal. However, all Respondents will be required to submit adequate information showing that the Respondent is qualified to perform the required work.

VII. Review of RFP Forms, Documents and Requirements: It shall be each Respondent's responsibility to examine carefully and, as may be required, properly complete all documents issued pursuant to this RFP. Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.

VIII. Responses: A total of one (1) original signed copy (marked "ORIGINAL") using the Proposal Form attached as Exhibit A, and three (3) exact copies less the pricing information, (marked copy) and one (1) copy of the original on a USB/Thumb drive shall be placed unfolded in a sealed package with the Respondent's name and return address and addressed as follows:

{RFP # {Insert Number}}
{Insert Exact Title of RFP}
{Insert Month, day, year, Time of Bid Opening}
The San Antonio Housing Authority
Procurement Department
818 S. Flores
San Antonio, Texas 78204

The Respondents shall bind the proposal such that SAHA can, if needed, remove the binding (i.e. "comb-type, etc.) or remove the pages from the cover (i.e. 3-ring binder, etc.) to make copies then return the proposal submittal to its original condition.

Continues on next page.

IX. Withdrawal of Proposals: A request for withdrawal of a proposal due to a purported error must be filed in writing by the Respondents within 48 hours after the proposal deadline. The request shall contain a full explanation of the purported error. The foregoing shall not be construed to violate the common law right of withdrawal for material error as defined in State statute. SAHA retains the right to accept or reject any and all bids to the extent permitted by law. Negligence on the part of the Respondents in preparing his/her proposal confers no right of withdrawal or modification of the proposal after such proposal has been received and opened.

X. Mistake in Proposal Submitted: After a proposal has been opened it may not be changed for the purpose of correcting an error in the pricing. This does not affect the common law right of the Respondent to withdraw a bid due to a material mistake in the bid.

A. Irregular Proposal Submittal: A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at SAHA's discretion, be reason for rejection:

- If the forms furnished by SAHA are not used or are altered or if the proposed costs are not submitted as required and where provided.
- If all attachments required or requested to be completed do not accompany the proposal submittal.
- If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the Respondents submitting the same a competitive advantage over other Respondents.
- If the Respondent adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

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

- Evidence of collusion among prospective Respondents. Participants in such collusion will receive no recognition as Respondents or Respondents for any future work with SAHA until such participant shall have been reinstated as a qualified bidder or Respondent. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
- More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s).
- Lack of competency, lack of experience and/or lack of adequate resources.
- Unsatisfactory performance record as shown by past work for SAHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.
- Incomplete work, which in the judgment of SAHA, might hinder or prevent prompt completion of additional work, if awarded.
- Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of award.
- Failure to demonstrate minimum qualification requirements of SAHA.
- Failure to list, if required, all team members, subcontractors (if subcontractors are allowed by SAHA) who will be engaged by the successful Respondent(s) to participate in the Project.

- Failure of the successful Respondents to be properly licensed by the City, County and/or the State of Texas and/or to be insured by a commercial general liability policy and/or worker's compensation policy and/or business automobile liability policy, if applicable.
- Any reason to be determined in good faith, to be in the best interests of SAHA.

- XII. Questions/Inquiries:** A Respondent may inquire or question any of the proposal documents or any part of the information contained therein, by submitting, in writing to the contact person listed herein, at least eight (8) days prior to the proposal submission deadline, a complete and specific explanation as to what he/she is requiring clarification. SAHA reserves the right to issue a revision to the applicable RFP requirements in the form of an Addendum or may reject the Respondent's request.
- XIII. Substitutions:** Respondents must propose a Project that meets the requirements of the RFP documents. All verbal communications or instructions provided by any SAHA personnel shall only become official and binding when issued as an addendum by the SAHA Procurement Department.
- XIV. No Liability for Costs:** SAHA assumes no liability or responsibility for the costs incurred by the Respondents for any materials, efforts or expenses required in the preparation of proposals or in connection with presentations or demonstrations prior to the issuance of a Contract.
- XV. Proposal Opening Results:** Proposals are publicly opened and the results are generally a matter of public record. When SAHA has concluded all evaluations, has chosen a final top-rated Respondent/s, has completed the award and is ready to issue such results, SAHA shall notify the successful Respondent/s. All proposal documents submitted by the Respondents are generally a matter of public record unless such information is deemed to be proprietary.
- XVI. Award:** Submissions will be evaluated on the criteria stated in Section A of this RFP. After evaluation of the responses, the Contract will be awarded to the Respondent representing the "Best Value" to SAHA after preferences for Section 3 business concerns are considered. The Selected Contractor will then enter into a construction agreement with SAHA.
- XVII. Taxes.** SAHA, as a governmental entity, is exempt from Texas State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- XVIII. Insurance:** If a Respondent receives an award and unless otherwise waived in the Contract, the Selected Developer will be required to provide an original Certificate of Insurance confirming the minimum requirements found within Exhibit I to SAHA within 10 days of contract signature.
- XIX. Exceptions.** SAHA will consider any exception to the RFP that the Respondent wishes to include but the failure of SAHA to include such exceptions does not give the successful Respondent the right to refuse to execute SAHA's contract form. It is the responsibility of each prospective Respondent to notify SAHA, in writing, on the Form of Proposal of any exceptions to the RFP terms. SAHA will consider such clauses and determine whether or not to include in the Contract.

XX. Right to Protest:

A. Rights: Any prospective or actual Respondents or contractor, who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures. Disagreements with the evaluators' judgments as to the number of points scored are not reasons for an appeal. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

B.

A.1 Definition: An alleged aggrieved "protestant" is a prospective Respondent or Respondents who feels that he/she has been treated inequitably by SAHA and wishes SAHA to correct the alleged inequitable condition or situation.

A.2 Eligibility: To be eligible to file a protest with SAHA pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a prospective Respondents (i.e. recipient of the RFP documents) when the alleged situation occurred. SAHA has no obligation to consider a protest filed by any party that does not meet these criteria.

A.3 Procedure: Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of SAHA's procurement policy. Any protest against a SAHA solicitation must be received before the due date for receipt of Proposals or proposals and any protest against the award of a contract must be received within ten calendar days after contract award or the protest will not be considered.

All protests must be in writing and submitted to the Director of Procurement for a written decision. The Director of Procurement shall make a recommendation to the Contracting Officer who shall issue a written decision and findings to the Contractor within 30 days from receipt of the written protest. This decision is then appealable to the Board of Commissioners within 30 days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the following example:

APPEAL OF RFP NO. (insert exact number of RFP here)

San Antonio Housing Authority
Attn: Procurement Department
818 South Flores Street
San Antonio, TX 78204

Continues on next page.

XXI. Bid Guarantee and Bonding

A. Performance and Payment Bond

The selected Contractor must provide SAHA with Performance and Payment bonds equal to 100% of the cost of the work for each phase of seven (7) homes when the Release is issued for that phase. All Surety Bonds shall be issued by companies licensed to do business in the State of Texas, approved by the U.S. Treasury and "A" rated or better by A. M. Best. Acceptable Payment & Performance Bonds shall be provided to SAHA prior to any construction activities. Individual sureties will not be accepted.

B. Bid Guarantee

No Bid Guarantee is required.

End Section B

**Section C
Information To Be Submitted**

The response to this RFP shall be submitted in the manner described in this Section. Each category must be separated by index dividers and the index divider must extend so that each tab can be located without opening the proposal and labeled with the corresponding tab reference noted below. Failure to submit the proposal in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that proposal and may be cause for elimination of that Respondent from consideration for award.

C.1 Tab 1, Form of Proposal and Cost:

This form is included as Exhibit A to this RFP document and must be fully completed and submitted under this tab as part of the submittal on the Respondent's Letterhead.

Each Respondent shall enter its proposed bid to SAHA for the construction of 34 three-bedroom, two and a half--bath homes and 14 two-bedroom, two-bath homes that meet or exceed the SAHA requirements. A Fee Sheet is provided as part of Exhibit A for compiling the total bid.

Respondent's proposed cost must be inclusive of all necessary costs to provide the proposed construction project, including, but not limited to: employee costs and benefits; clerical support; overhead; profit; supplies; materials; licensing; insurance, bonding, permits; etc. Each price proposed shall be fully "burdened" with profit, overhead and all other associated costs to deliver a complete project as specified herein.

Respondent shall not include the proposed Form of Proposal sheet or any costs in the copies. They must be submitted or attached only to the "ORIGINAL" copy.

This information shall be submitted under the Tab 1 of the Proposal.

C.2 Tab 2, HUD Forms, Conflict of Interest Questionnaire and Form 1295: These Forms included as Exhibit B to this RFP document must be fully completed, except as noted, executed where indicated, and submitted under this tab as a part of the Proposal submittal. **"NOTE"** Only the successful Respondent shall be required to submit a Form 1295 to the Texas Ethics Commission in compliance with Government Code 2252.908 and a copy of the submission along with the Certification prior to execution of the contract with SAHA.

This information shall be submitted in the form of Tab 2 to the Proposal.

C.3 Tab 3, Profile of Firm, Company Biography and Subcontractors' Listing: These Forms are included as Exhibit C to this RFP document. These forms must be fully completed, executed and submitted under this tab as a part of the submittal by the Respondent.

This information shall be included as Tab 3 of the Proposal.

Continues on next page.

C.4 Tab 4, Evaluation Criteria Response: The Respondent must submit information relevant to each of the following evaluation factors:

- A. Experience:** Respondent shall provide information on the experience of the firm and the staff directly responsible for the project in building single-family and/or duplex homes. Information shall also be provided on experience with construction of affordable single-family and/or duplex homes.

Respondent shall provide evidence of successful completion of multiple homes (5 or more) which were under construction simultaneously. Provide in a table by year for at least the previous 3 years the following information: Street Address, City, Zip Code, construction start date, construction end date, and whether or not it was classified as an affordable home for all homes built during this time period.

- B. Project Management:** Respondent shall provide a detailed narrative of the firm's approach to this project, defining the number of crews, work schedule, team organization, key individuals, and quality control plan and inspection schedules. A Gantt chart shall be submitted for the proposed scheduling and sequencing for construction of one phase of 7 homes.

- C. Capacity/Financial Viability:** Respondent shall provide information demonstrating ability to meet the bonding requirements of the contract by submitting a letter from the firm's surety stating that it has sufficient bonding capacity to finance multiple phases at one time. Respondent shall also provide evidence that it has sufficient financial resources to undertake the construction of this project. This may include copies of most recent financial statements, lines of credit and/or most recent audit if available.

All information submitted under this Section shall be included as Tab 4 of the Proposal.

- C.5 Tab 5, Section 3 Business Preference:** Any Respondent claiming a Section 3 Business Preference, shall under this tab include the fully completed and executed Section 3 applicant certification form for low-income employees for whom Respondent is seeking the preference, verification of total number of full-time employees, names and addresses of low-income residents who are Respondent's employees. **Note: If you qualify as a Section 3 Business Concern, your proposal will receive a preference over other respondents as specified in Exhibit D.**

This information shall be included as Tab 5 of the Proposal.

C.6 Tab 6, Small/Minority/Woman/Disadvantaged/Veteran Business Enterprise

Utilization Plan: The Respondents shall submit a plan that details how the Contractor will make a good faith effort to subcontract with S/W/MBE companies. (Exhibit D) **FAILURE TO PROVIDE THE SWMBE PLAN MAY CAUSE THE RESPONSE TO BE DISQUALIFIED AS NON-RESPONSIVE.**

This information shall be included as Tab 6 of the Proposal.

C.7 Tab 7, Section 3 Good Faith Effort Compliance Plan: Respondents are required to complete and submit the SECTION 3 PROGRAM GOOD FAITH EFFORT COMPLIANCE PLAN outlining their efforts to employ qualified Section 3 businesses or persons. (Exhibit D) The goal as stated in the Good Faith Effort Compliance Plan is thirty percent (30%) of new hires for Section 3 persons per contract. The subcontracting goal is ten percent (10%) for Section 3 Businesses for construction contracts and three percent (3%) for Section 3 Businesses for non-construction contracts. SAHA will provide a listing of qualified Section 3 Businesses upon request. **FAILURE TO PROVIDE THE SECTION 3 PROGRAM GOOD FAITH EFFORT COMPLIANCE PLAN MAY CAUSE THE RESPONSE TO BE DISQUALIFIED AS NON-RESPONSIVE.**

This information shall be included as Tab 7 of the Proposal.

C.8 Tab 8, Proposal Checklist and Certification: Respondent shall certify that the Proposal documents are complete and included in the response and to the Certification contained in Exhibit E.

This information shall be included as Tab 8 of the Proposal.

End Section C

Section D Terms and Conditions

These Terms and Conditions shall be considered required terms of any Contract between the Successful Respondent and SAHA. For construction projects the Contractor must also be familiar with federal guidelines issued by HUD known as the "General Conditions of the Contract for Construction" (see form HUD 5370). These guidelines, together with any supplemental general conditions issued by HUD, outline requirements for the conduct of work and administrative requirements. The guidelines include, but are not limited to, Termination for Convenience, Default, Clean Air and Water standards, and compliance with Davis-Bacon wage rates. **"NOTE" Davis Bacon wage rates are not applicable to this Procurement.**

Contractors shall follow the U.S. Department of Housing and Urban Development's (HUD) Cost Control and Safe Harbor Standards (see Exhibit B).

I. GENERAL RESPONSIBILITIES:

- A. Specifications:** The Contractor shall provide the Project in accordance with the Minimum Design Requirements, Universal Design Requirements and Plans and Specifications approved by SAHA.
- B. Regulatory/Licensing:** Contractor shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services. Obtaining licenses and permits shall be the sole responsibility of the Contractor.
- C. Timesheets:** Contractor shall keep accurate timesheets for all employees assigned to perform any project, task, or assignment in the Project.
- D. Unacceptable Employees:** If any employee of the Contractor is deemed unacceptable by SAHA, Contractor shall immediately replace such personnel with a substitute acceptable to SAHA.
- E. Uniforms/Badges:** Contractor shall provide uniforms and/or ID badges for all employees working on SAHA's properties. No employee will be allowed on SAHA's properties out of uniform and/or without an ID badge.
- F. Criminal history:** Contractor shall perform criminal history checks on all employees performing work on SAHA property and if requested provide summaries of the results to SAHA. Prospective employees whose criminal history checks discloses a misdemeanor or felony conviction involving crimes of moral turpitude or harm to persons or property shall not be used to perform work under this RFP or any resulting contract. Criminal history checks will be completed at the sole expense of the Contractor.
- G. Drug Screening:** Respondent by submitting a response to this solicitation certifies that it complies with the "Drug Free Workplace Act". Respondent agrees that if awarded a contract and upon a reasonable request by SAHA respondent, will have tested immediately any employee suspected of being under the influence of drugs or alcohol and if positive remove them permanently from assignments on SAHA owned properties

H. Work on SAHA Property: The Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and shall immediately return said property to a condition equal to or better than the existing condition prior to the commencement of work at the site at no cost to SAHA.

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

I1. Wage Rate: *Davis Bacon wage rates do not apply to this Project.*

J. Independent Contractor: The Contractor shall be considered an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.

II. SECTION 3 REQUIREMENTS: **Contractor is required to prepare and submit monthly reports on Section 3.** Contractor shall utilize Section 3 residents and businesses as defined in Exhibit C to perform the requirements under the Project to the greatest extent feasible and shall document such efforts monthly. Contractors will be evaluated on their performance at achieving this goal and such evaluation shall be a factor in future awards.

III. SUBCONTRACTORS: Contractor may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the SAHA. Also, any substitution of subcontractors must be approved in writing by SAHA prior to their engagement. All requirements for the "Prime" Contractor shall also apply to any and all subcontractors. It is the Contractors' responsibility to ensure the compliance by the subcontractors. Regardless of subcontracting, the Contractor remains liable to SAHA for the performance under the contract. The Contractor shall assure that its subcontractors comply with all applicable HUD regulations and SAHA requirements including but not limited to Section 3 requirements, insurance, permitting, code compliance, and licensure.

IV. LIMITATIONS, INDEMNIFICATION, and INSURANCE:

A. Limitation of Liability: In no event shall SAHA be liable to the successful Respondents for any indirect, incidental, consequential or exemplary damages.

B. Indemnification: The Contractor shall indemnify and hold harmless SAHA and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for, or on account of any bodily injury or death of an employee of the Contractor, its agent, or its subcontractor of any tier received or sustained by any persons or property growing out of, occurring, or attributable to any work performed under or related to this Agreement, to the extent resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor. **CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT, SURVIVES TERMINATION OF THIS AGREEMENT.**

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

C. SAHA Actions: It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of SAHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

D. Insurance: The Contractor shall maintain in full force and effect during the entire contract term insurance in the form and in amounts found in Exhibit I.

V. LIQUIDATED DAMAGES: For each day that performance under the contract is delayed beyond the time specified for completion, the successful Respondents shall be liable for liquidated damages in the amount \$100 per day. However, the timeframe for performance may be adjusted at SAHA's discretion in writing prior to default under the contract.

VI. WARRANTY:

A. General Warranty: Except as specified otherwise all items/services installed/provided under any contract must include a minimum two (2) year general warranty including labor and installation. This period will begin on the date of "FINAL" acceptance by SAHA.

B. Precedence: The services provided under the contract shall conform to all information contained within the contract as well as applicable industry-published technical specifications, and the Specifications. If one specification contains more stringent requirements than the other, the more stringent requirements shall apply.

C. Implied Warranties: In addition to all other warranties, the warranty shall include the warranty for merchantability and the warranty of fitness for a particular purpose.

D. Assignment: Contractor shall assign any warranties and guarantees to SAHA and provide the Contractor's Warranty for Labor and Installation to SAHA along with all Manufacturers' Warranty documents.

VII. INVOICING:

A. Invoices: Pay applications must be prepared using AIA G702 & 703 forms. Invoices must contain a complete description of the work or service that was performed, the contract price for each service, the purchase order number, contract number (if applicable), date of service, and address of service location or delivery address. Contractor(s) must submit a separate invoice for each purchase order issued by SAHA unless prior approval is obtained from SAHA. To insure prompt and timely payment of invoices, and unless utilizing a progress payment schedule, invoices shall be sent electronically to the following address:

Accounts_Payable@saha.org

If the Contractor does not have the capability to send invoices electronically, they may be mailed to:

San Antonio Housing Authority
Finance and Accounting
P.O. Box 830428
San Antonio, TX 78283-0428

- B. Progress Payments:** SAHA may make progress payments approximately every 30 days as the work proceeds if work meets owner's standards, as approved by the Contracting Officer.
- C. Direct Deposit:** Upon the Award of Contract, Contractor shall complete a form for direct deposit to process all payments electronically to insure prompt and efficient payment of all invoices.
- D. Timely Invoicing:** Contractor shall invoice SAHA within 60 days after the delivery of the goods or service. If contractor fails to invoice within 60 days SAHA reserves the right to not pay the invoice.

VIII. Laws and Regulations:

- A. General:** SAHA is a governmental entity as that term is defined in the procurement statutes. SAHA and this RFP and all resulting contracts are subject to federal, state and local laws, rules, regulations and policies relating to procurement as applicable. Contractor shall comply with all local, state and federal laws concerning safety (OSHA) and environmental control (EPA and Bexar County Pollution Regulations) and any other enacted ordinance, code, law or regulation. Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- B. Specific.** Contractors shall comply with all statutes, rules, regulations, executive orders affecting procurements by Housing Authorities including but not limited to:
 - Executive Order 11246
 - Executive Order 11063
 - Copeland "Anti-Kickback" Act (18 USC 874)
 - Davis Bacon and Related Acts (40 USC 276a-276a-7)
 - Clean Air & Water Acts (42 USC 1857(h); 33 USC 1368)
 - Contract Work Hours & Safety Standards Act (40 USC 327-330)
 - Energy Policy & Conservation Act (PL 94-163, 89 STAT 871)
 - Civil Rights Act of 1964, Title VI (PL 88-352)
 - Civil Rights Act of 1968, Title VIII (PL 90-284 Fair Housing Act)
 - Age Discrimination Act of 1975
 - Anti-Drug Abuse Act of 1988 (42 USC 11901 et. Seq.)
 - HUD Information Bulletin 909-
 - Immigration Reform & Control Act of 1986
 - Fair Labor Standards Act (29 USC 201, et. Seq)
 - HUD 5370 General Conditions.

C. Incorporation. Each provision of law and each clause, which is required by law to be inserted in this RFP or any contract, shall be deemed to have been inserted herein, and this RFP and any resulting contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party. The aforementioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessarily applicable nor is an omission of such statute, regulation or executive order intended to indicate that it is not applicable.

IX. Termination:

A. Early Termination. In the event any resulting contract is prematurely terminated due to non-performance and/or withdrawal by the Contractor, SAHA reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (difference between terminated Contractor's rate and new company's rate) beginning the date of Contractor's termination through the contract expiration date. The contract may be terminated under the following conditions:

a. Consent: By mutual consent of both parties, and

b. Termination for Cause: As detailed within the attached HUD Forms, SAHA may terminate any and all contracts for default at any time in whole or in part, if the Contractor fails to perform any of the provisions of any contract, so fails to pursue the work as to endanger performance in accordance with the terms of the RFP or any resulting contracts, and after receipt of written notice from SAHA, fails to correct such failures within seven (7) days or such other period as SAHA may authorize or require.

c. Failure to Fund. SAHA may terminate any contract resulting from this RFP in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.

d. Termination for Convenience: In the sole discretion of the Contracting Officer, SAHA may terminate any and all contracts resulting from this RFP in whole or part upon thirty days prior notice to the Contractor when it is determined to be in the best interest of SAHA.

B. Action Upon Termination. Upon receipt of a notice of termination issued from SAHA, the Contractor shall immediately cease all activities under any contract resulting from this RFP, unless expressly directed otherwise by SAHA in the notice of termination.

C. Remedies Cumulative. The rights and remedies of SAHA provided under this section are not exclusive and are in addition to any other rights and remedies provided by law or under any contract.

D. Rights Upon Termination. In the event the contract is terminated for any reason, or upon its expiration, SAHA shall retain ownership of all work products including deliverables, source and object code, microcode, software licenses, and documentation in whatever form that may exist. In addition to any other provision, the Contractor shall transfer title and deliver to SAHA any partially completed work products, deliverables, source and object code, or documentation that the Contractor has produced or acquired in the performance of the contract.

X. General Conditions:

A. Severability: If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.

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

C. Time of the Essence: Time is of the essence as to each provision in which a timeframe for performance is provided in this RFP. Failure to meet these timeframes may be considered a material breach, and SAHA may pursue compensatory and/or liquidated damages under the contract.

D. Examination and Retention of Contractor's Records: SAHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under all contracts executed as a result of this RFP, 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 audits, examinations, excerpts and transcriptions.

E. Right to data and Patent Rights: In addition to other ownership & use rights SAHA shall have exclusive ownership of all, proprietary interest in, and the right to full and exclusive possession of all information, materials, documents, software, and all electronic data discovered or produced by Contractor and/or subcontractors pursuant to the terms of the contract, including but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the contract. Both parties agree to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent and Copyright Infringement.

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

G. Proposed Cost:

G1. Base Costs: Your proposed fee for each home is inclusive of all necessary costs to provide the proposed product, including, but not limited to: employee costs and benefits; clerical support; overhead; profit; supplies; materials; licensing; insurance, vehicle fuel, etc. Each fee proposed shall be fully "burdened" with profit and overhead costs.

H. "Equal": Catalogs, brand names or manufacturer's references where provided are descriptive only and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless specified otherwise. If bidding other than the referenced manufacturer, brand or trade name, Bidder must provide a complete description of product offered, and illustrations and must be included in the bid submittal. Failure to include the above referenced data will require Contractor to furnish specified brand names, numbers, etc.

I. Notice to Proceed: Start work date will be determined by the SAHA Project Manager and Contractor's Manager. Contractor shall not begin work until a Notice to Proceed is received from SAHA signed by the contracting officer.

J. Communications:

J1. Form: All claims, notices, demands, requests, instructions, approvals and proposals must be submitted in writing.

J2. Notice to Contractor: Any Notices or Demands upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Contract or at such other office as he / she may from time to time designate in writing to SAHA or deposited in the United States mail in a sealed, postage-prepaid envelope or if delivered with charges prepaid to any telegraph company for transmission and addressed to the office of the Contractor indicated on the signature page of the contract or such other address as may be subsequently specified in writing to SAHA.

J3. Notice to SAHA: All notification papers required to be delivered to SAHA or its designated representative shall, unless otherwise specified in writing to the Contractor, be delivered to attn. Procurement, SAHA at 818 South Flores, San Antonio, Texas, 78204; and any notice to or demand upon SAHA shall be sufficiently given if so delivered or deposited in the United States mail in a sealed, postage-prepaid envelope or delivered with charges prepaid to any telegraph company for transmission to SAHA at the above address or to such other address as SAHA may subsequently specify in writing to the Contractor for such purpose.

J4. Receipt: Any such notice shall be deemed to have been given as of the time of actual delivery; or in the case of mailing, when the same should have been received in due course after the date of surrender to the Post Office; or in the case of telegrams, at the time of actual receipt, as the case may be.

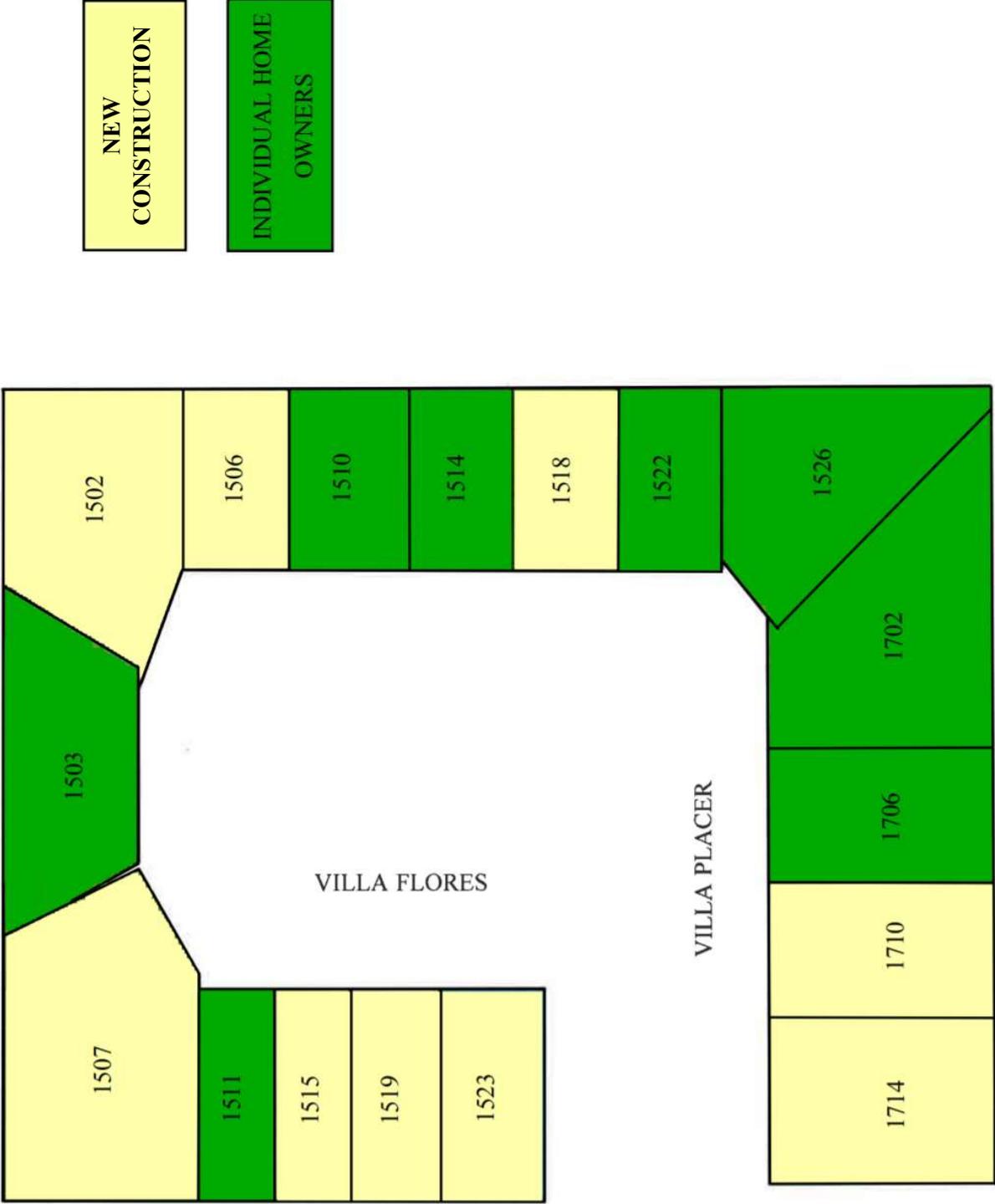
- K. Builder's Risk:** Contractor is required to acquire Builder's Risk Insurance for any project or projects resulting from this solicitation. In any case SAHA will not be responsible for any loss to Contractor's tools, materials, supplies, the building or project or any other coverage normally covered under Builder's Risk Insurance. See HUD form 5370.
- K1. Damages:** Any vandalism, including graffiti, must be addressed by the next business day.
- L. Storage:** The Contractor and his/her subcontractors may maintain, with approval by the SAHA Project Manager, various Storage Facilities on the site as may be necessary in the proper conduct of the work. These shall be located to cause no interference with any work to be performed on the site by the Contractor or others. The Contractor shall consult with SAHA regarding the location(s) of these facilities on each site.
- L1. Removal of Temporary Facilities:** Upon completion of the project, or as directed by SAHA, the Contractor shall remove all temporary structures and facilities they installed from the site and leave the premises in equal or better condition than it was at turnover.
- M. Final Inspection:**
- M1. Notice:** The Contractor shall provide prompt written notification to SAHA when all work is completed. A final project inspection shall be made when all work is completed. Until the final inspection has been made and project accepted by SAHA, SAHA shall not advance any of the retainage or make the final payment to the Contractor without the approval and concurrence of the Contracting Officer.
- M2. Inspection Date:** Upon receipt of the Contractor's notification of the date when the work has been completed, SAHA shall conduct a final Inspection within 10 calendar days.
- M3. Inspection Participants:** The final inspection shall be conducted by a SAHA representative/s, any System Manufacturer's Representative/s, and the Contractor's representative/s at a minimum.
- M4. Inspection Conference:** The inspection team shall meet after completing the final inspection to determine whether the work has been completed in accordance with these specifications and produce a Punch List Schedule which describes any minor items of incomplete or unsatisfactory work and document if there are any major deficiencies which must be corrected by the Contractor and additional inspections scheduled prior to contract settlement.
- N. Settlement Documents:** The settlement document shall state that the work was completed in accordance with the construction documents, including change orders except any minor items identified on SAHA's proposed certificate of completion, the total amount due the Contractor and a separately stated amount for each unsettled claim against SAHA. It shall also state that SAHA is released of all liens and all claims except those expressly stated in the Contractor's release and that there are no outstanding claims for unpaid wages, materials, or supplies.

- O. Safety:** Subject to prior approval by SAHA as to size, design, type and location, and to local regulations, the Contractor and his/her subcontractors shall erect Temporary Safety Signs, Barricades, Devices, etc. for the purposes of identification and controlling traffic and access. The Contractor shall furnish, erect, and maintain such as may be required and as necessary to safeguard life and property.
- P. Calculations:** The Contractor is responsible for field verifying the conditions and quantities required to deliver a complete and functional project. This shall include but is not limited to: demolition, disposal, preparation, installation, overhead, profit, bonding, general liability, labor burden, weather conditions, field verified quantities, and encumbrances. All Proposers' submitted Unit Price Items must include these variables. SAHA shall not pay additional sums for a Proposer's failure to factor these conditions into the Proposals. Failure to consider any of the factors listed shall not negate the Contractor's responsibility to perform if awarded a contract under this RFP.

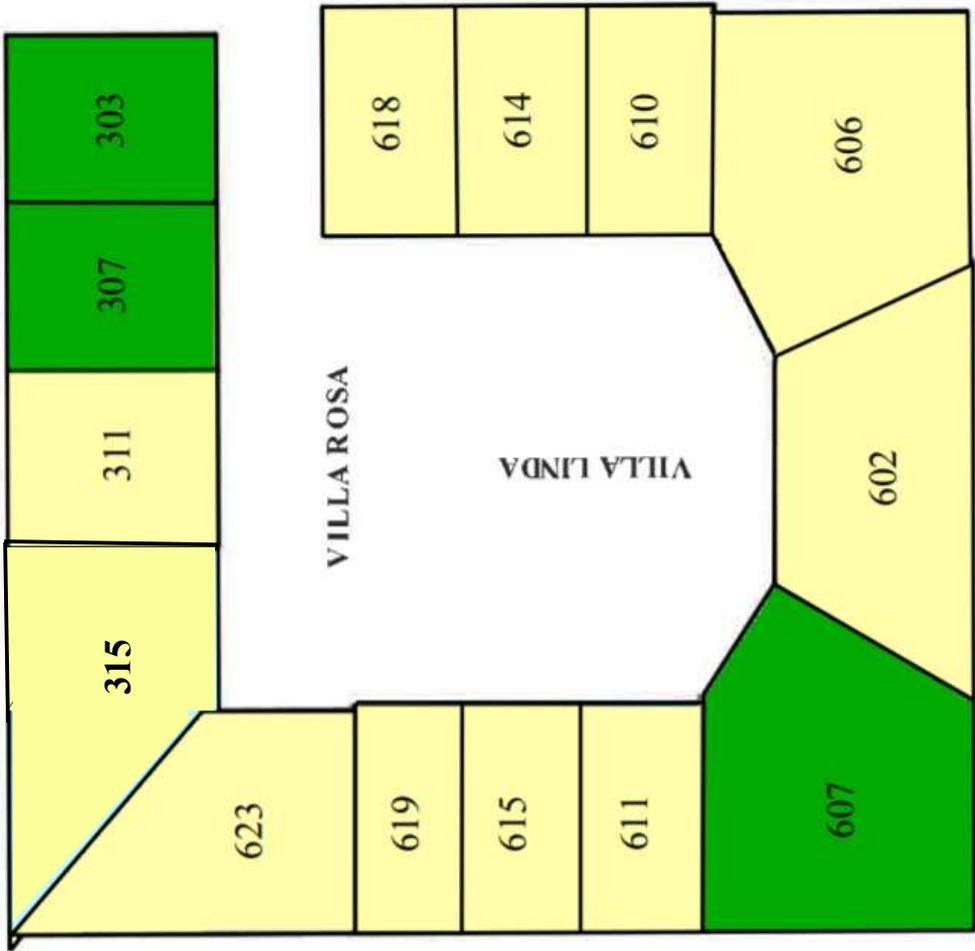
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ATTACHMENT A

Villas de Fortuna, Sunflower and Palm Lake Neighborhood Site Plans



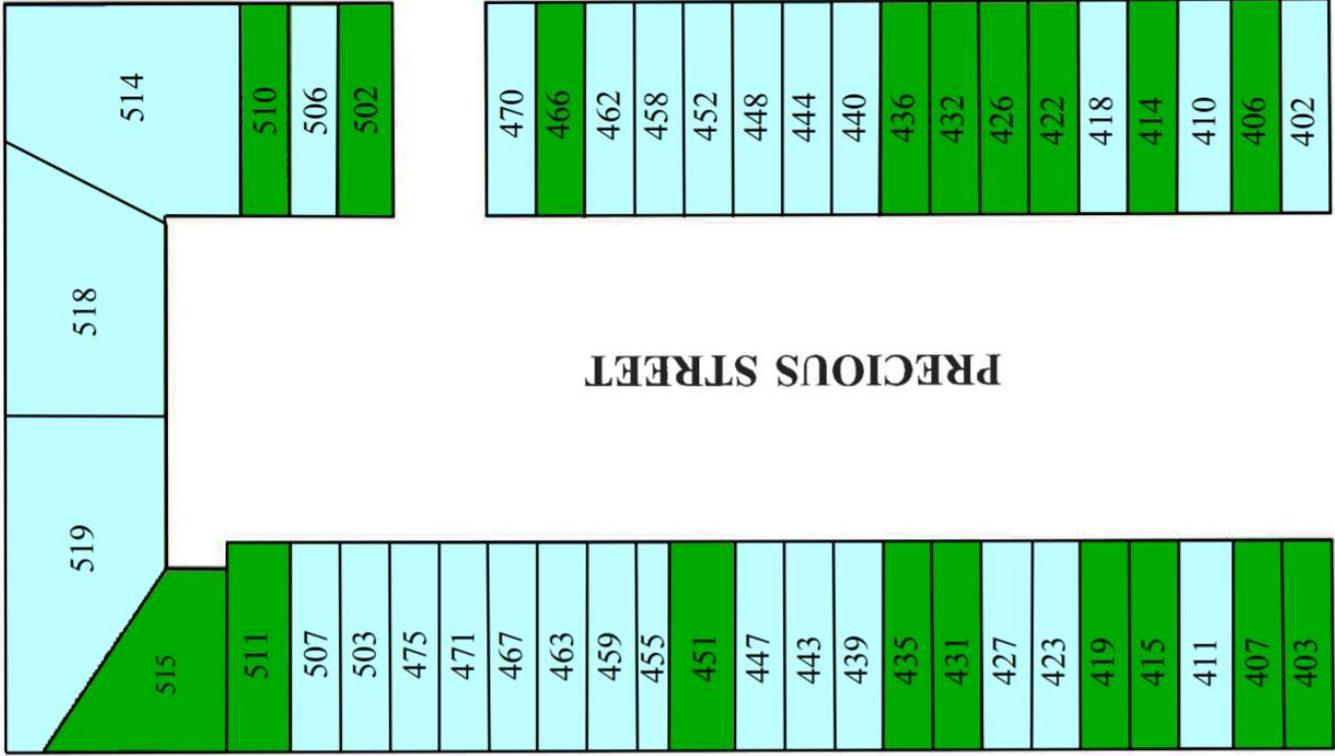
SUNFLOWER SUBDIVISION



**NEW
CONSTRUCTION**

**INDIVIDUAL HOME
OWNERS**

PALM LAKE SUBDIVISION



NEW
CONSTRUCTION

INDIVIDUAL HOME
OWNERS

ATTACHMENT B

Minimum Design Requirements

Villas de Fortuna, Sunflower and Palm Lake

The following are owner furnished items at no cost to Contractor and/or already existing at the site:

1. Platted and residential zone parcel / land for each house.
2. Construction draw funding every 30 days based on completed work - 30 day net at each draw less 10% retainage per draw.
3. Address existing at each parcel.
4. Existing utility services are located at each parcel. The services were disconnected and capped during the recent demolition phase. It will be the responsibility of the Contractor to ensure new services are in good operating condition while constructing the new houses.

Project signage

Contractor shall include in the bid the cost to provide and install three full-color project signs (one per subdivision) each on a 4'x8' sheet of 5/8" plywood similar to the sign shown in Attachment E. SAHA will specify the information to be included on the signs. Each sign shall be mounted on 4"x4" posts and installed and removed by the Contractor at SAHA's election.

Barriers

Contractor will provide protection for all driveways during construction with lightweight sawhorse style barriers. The barriers will become SAHA's property.

See attached Minimum Design Requirements

VILLAS DE FORTUNA, PALM LAKE AND SUNFLOWER MINIMUM DESIGN STANDARDS

MINIMUM SIZE

2-bedroom, 2 baths - minimum of 1,100 sf condition space

3-bedroom, 2.5 baths - minimum of 1,250 sf conditioned space

Must have attached single car garage – minimum of 220 sf

EXTERIOR

Entrances

- Front entrance facing street
- Rear entrance to back yard
- Raised panel, primed steel or fiberglass doors with insulated cores
- Half glass in back door; keyed deadbolt on interior
- Peephole at front door
- Weather stripping and thresholds at exterior doors
- Keylock & deadbolt on exterior doors

Flatwork

- One car concrete drive from existing approach to garage door
- Concrete driveway approach if missing or damaged
- 3 ft wide concrete sidewalk from drive to front door
- Concrete landings (48"x48" Min) at front and rear doors

Windows

- Meet building code for operable windows
- Low-E glass in aluminum frames
- At least one window at living area and kitchen
- At least one window to backyard
- Window screens - full

Exterior wall materials

- Horizontal and/or vertical fiber-cement board

Roofing

- Gable or hip roof with at least 4:12 pitch
- Asphalt composition Three Tab Roof shingles with at least 25 yr limited warranty
- Metal drip edge at fascia

Engineered construction

- Foundations, wall panels & trusses engineered
- Framing – 16" o.c. if exterior or load bearing, 24" o.c. if interior and non-load bearing
- Plywood, not OSB for second floor subflooring (if used), glued and screwed

Insulation to meet building and energy codes

- Attic must have blown-in insulation

Fencing of rear yard

- 4' chain link fencing with two gates

Landscaping - Meet COSA requirements

- Topsoil with sod in front and Bermuda grass seed in rear
- At least two 2" caliper trees
- Hose bibs at front and rear of home

Outdoor lighting

- Porch lights at front and rear doors each switched at interior

INTERIOR**HVAC**

- Heat Pump A/C - Minimum 14 SEER

Bathroom

- 30" (min.) vanity with integral lavatory
- Fixtures, Moen Chateau Package or equal
- Bathroom exhaust fan vented to outside
- 60" white fiberglass tub with integral tub surround
- Toilet – American Standard or equal
- Mirror at least 32" high over sink
- Light fixture over mirror at sink
- GFCI outlet at lavatory
- Ceiling light
- One toilet paper holder and at least one towel bar
- Privacy lock on bathroom door

Kitchen – Provide and install appliances

- Refrigerator, 25 cu ft top freezer with icemaker, Whirlpool WRS325FDAW or equal
- 30" electric range, Whirlpool WFC150MOEW or equal.
- Dishwasher - Undercounter, Whirlpool WDT7505AHW or equal.
- 1/3 hp disposal
- Vent hood with cooktop light and vented to exterior
- Double bowl stainless steel sink with Moen Chateau Package or equal.
- Prefinished wood faced cabinets with laminate countertops.
- GFCI counter top outlets

Laundry

- Laundry closet with washer/dryer connections
- Dryer vent as per building code requirements.

Bedrooms

- At least one exterior operable window; each window to meet building code
- Closet with minimum of 5 feet of hanging space
- Bifold or sliding doors
- Wooden hanging rod and single particle board shelf in each closet

Flooring

- Kitchen, bathroom, hallway - Sheet vinyl, vinyl tile, vinyl planks or ceramic tile
- Main living area - Low-pile carpet over standard pad or vinyl plank flooring
- Bedrooms - Low-pile carpet over standard pad or vinyl plank flooring

Lighting

- Bedrooms - 52" ceiling fan with light kit
- Living room- 52" ceiling fan with light kit
- Kitchen - Surface-mounted 2x4 ceiling fixtures
- Dining – Surface-mounted fixture.
- Hallway – Surface-mounted fixture

Window Coverings

- Cordless vinyl miniblinds on all windows

Interior Finishes

- Walls & ceilings sheetrock, taped & floated, textured and painted with satin finish
- Fire-rated sheetrock as required by code
- Garage interior wall insulated, taped & floated, no texture
- Garage ceiling insulated if garage is under habitable second floor space
- Finished base and trim - pine, MDF or polystyrene with semi-gloss finish
- Paneled hollow core doors for interior and closets

OTHER

- 40 gallon/6 year electric hot water heater
- RG6 cable TV outlet - 1 in living room, 1 in master bedroom
- Category 5 telephone outlets - 1 in kitchen, 1 in master bedroom
- Electrical to meet Building and Electrical code.
- Plumbing to meet Building and Mechanical code.
- HVAC to meet Building and Mechanical code.

ATTACHMENT C

Universal Design Requirements

SAN ANTONIO, TX – CODE OF ORDINANCES

ARTICLE XII. – UNIVERSAL DESIGN AND CONSTRUCTION REQUIREMENTS FOR NEW SINGLE FAMILY HOMES, DUPLEXES AND TRIPLEXES BUILT WITH FUNDS ADMINISTERED BY THE CITY OF SAN ANTONIO

Chapter 6 – Buildings

Sec. 6-316 – Universal design and construction requirements

If a person receives financial assistance from city, state, or federal funds administered by the city for the construction of new single family homes, duplexes, or triplexes, that person shall construct the units in accordance with all other city codes and the following requirements.

- (1) At least one entrance shall have a 36-inch door and be on an accessible route. (An accessible route is a continuous, unobstructed path at least thirty-six (36) inches wide connecting all interior and exterior elements and spaces of a house and site including corridors, parking, curb ramps, crosswalks and sidewalks and served by a no-step, flat entrance with a beveled threshold of one-half-inch or less).
- (2) All interior door openings shall provide an unobstructed path no less than that provided by a 32-inch wide door, except for a door opening that provides access to a closet of fewer than fifteen (15) square feet in area.
- (3) Each hallway shall have a width of at least thirty-six (36) inches and shall be level or with ramped or beveled changes at each door threshold.
- (4) All bathrooms shall have the walls reinforced around the toilet for potential installation of grab bars. Walls around the shower and tub shall be reinforced for potential installation of grab bars or a pre-manufactured tub and shower surround may be used which includes grab bar(s) certified to meet the ADA requirement to bear a 250-pound load. Wall reinforcements shall comply with the standards set forth in requirement 6, Reinforced Walls For Grab Bars of the Fair Housing Act Design and Construction Guidelines; Federal Register/Volume 56 No.44/Wednesday, March 6, 1991/ Rules and Regulations, a copy of which is available for inspection at the office of the City Clerk.
- (5) Each electrical panel, light switch or thermostat shall be mounted no higher than forty-eight (48) inches above the floor. Each electrical plug or other receptacle shall be at least fifteen (15) inches from the floor.

- (6) An electrical panel located outside the dwelling unit must be between eighteen (18) inches and forty-two (42) inches above the finished grade and served by an accessible route.
- (7) All hardware installed to open/close doors and operate plumbing fixtures shall be lever handles.

(Ord. No. 95641, § 1, 4-18-02)

Sec. 6-317. - Applicability.

- (a) This article applies to the construction of all new single family homes, duplexes or triplexes, for which an application for financial assistance from the city or its agents is received and for which a building permit will be issued under the city building code after the effective date of the ordinance from which this article derives.
- (b) City financial assistance covered by this article includes but is not limited to:
 - (1) Contractual agreements involving a city-funded program or fund, including the San Antonio Housing Trust Foundation, Inc. or similar programs;
 - (2) Real estate purchase, lease, fee waiver, tax phase in, tax abatement;
 - (3) Donation of land by the city or its agents;
 - (4) Disbursement of federal, state, or city construction funds, for example but not limited to, U.S. Department of Housing and Urban Development funds such as Community Development Block Grant Program (CDBG) funds, Housing Investments Partnership Act (HOME Program) funds, and Housing Opportunities for Persons With Aids Program funds, and funds disbursed under the Federal Emergency Management Act; or
 - (5) Tax Increment Financing in a Tax Increment Reinvestment Zone established in accordance with the Tax Increment Financing Act.

(Ord. No. 95641, § 1, 4-18-02; Ord. No. 96621, § 11, 10-24-02)

Sec. 6-318. - Waiver of exterior accessibility requirements.

- (a) The director of development services or his designee may only grant modifications or an exemption to the requirements of this article regarding full compliance with exterior path of travel on an individual case-by-case basis. The criteria for granting a modification or exemption are as follows:

- (1) The lot rises or falls so steeply from the street that a maximum 1:12 slope cannot be achieved without extensive grading; and
 - (2) No vehicular access to the back of the house will be available by means of an alley.
- (b) Appeals of orders, decisions or determinations made by the director of development services may be made to the building and fire code board of appeals.

(Ord. No. 95641, § 1, 4-18-02)

Sec. 6-319. - Implementation.

- (a) A copy of the ordinance from which this article derives and attachments shall be included in city contracts funding the new construction of single family homes, duplexes and triplexes entered into by the city or its agents, for example but not limited to, the San Antonio Housing Trust Fund, the department of housing and community development and the community initiatives department.
- (b) Architects and builders shall:
- (1) Clearly stamp or print "Universal Design" on plans submitted in accordance with this article;
 - (2) Clearly identify design elements complying with section 6-315 and attached to city funding contracts; and
 - (3) Certify that the plans comply with the requirements of this article.
- (c) Plan checking, construction inspections and enforcement shall be accomplished by the development services department in accordance with existing procedures.

(Ord. No. 95641, § 1, 4-18-02)

Secs. 6-320—6-629. - Reserved.

ATTACHMENT D Project Sign



ATTACHMENT E

Pre-Submittal Log On Information

[Join with Google Meet](#)

Meeting ID

meet.google.com/kem-tkpb-ydp

Phone Numbers

(US)[+1 617-675-4444](tel:+16176754444)
PIN: 593 166 557 5194#

EXHIBIT A

Form of Proposal

San Antonio Housing Authority
818 S. Flores
San Antonio, Texas 78204

(To be on Contractor's Letterhead)

Attention: Charles Bode, Senior Contract Specialist

RE:

New Affordable Home Construction Services for Villas de Fortuna, Sunflower and Palm Lake
Request for Proposal No. 2009-909-12-5071
Gentlemen:

The undersigned Respondent, having read and examined the RFP and associated documents for **the construction of 48 affordable single-family homes in the Villas de Fortuna Sunflower and Palm Lake Subdivisions** and having visited and /or familiarized myself with the site(s) of the proposed project and after thoroughly considering the factors which will affect the execution of the project and the cost thereof, does hereby submit this Proposal. All prices stated herein are firm and shall not be subject to escalation provided this Proposal is accepted within one hundred eighty (180) days after the official opening of proposals.

The undersigned hereby declares that the following list states any and all variations from and exceptions to the requirements of the proposal requirements and that, otherwise, it is the intent of this Proposal that the Project will be performed in strict accordance with the subsequent Contract Documents.

(If no exceptions are taken, indicate so by entering "None").

(Continue on separate page, if necessary, and attach hereto)

Respondent acknowledges the receipt of the following addenda:

Addendum #1 _____ Date _____

Addendum #2 _____ Date _____

Addendum #3 _____ Date _____

Addendum #4 _____ Date _____

The undersigned Respondent herein proposes to execute the construction of thirty four (34) 3 bedroom, 2.5 bath homes and fourteen (14) 2 bedroom, 2 bath homes for the costs shown on the attached Fee Sheet:

PERFORMANCE AND PAYMENT BONDS

The cost for obtaining Performance and Payment Bonds, if required, shall be included in the overall fee structure.

If this Proposal is accepted, the undersigned Respondent agrees to start and to complete the Project in accordance with the schedule set forth in the subsequent Contract. It is understood that all services shall be complete and all facilities shall be removed from development property as scheduled. The undersigned fully understands that the time of completion is of the essence of the Contract.

If written notice of the acceptance of this proposal is mailed, facsimiled, or delivered to the undersigned within one hundred eighty (180) days after the date of opening of proposals, or anytime thereafter before this proposal is withdrawn by the Respondent, the undersigned will, within ten (10) days after the date of mailing, facsimileing, or delivering of such notice, execute and deliver a Contract in the form provided by SAHA, complete with acceptable Performance and Payment Bonds.

Dated this _____ day of _____, 20_____.

Offeror _____

By _____ Title _____

ATTEST: _____

Business Address of Offeror _____

State of Incorporation _____

Address of Principal Office _____

Email: _____

FEE SHEET

Units	Cost per unit	# of units	Extended Cost
2 bedroom, 2 bath			
Plan A	\$	7	\$
Plan B	\$	7	\$
3 bedroom, 2.5 bath			
Plan A	\$	11	\$
Plan B	\$	11	\$
Plan C	\$	12	\$
TOTAL COST FOR PROJECT	\$		
Company Name:			

EXHIBIT B
HUD Forms, Conflict of Interest Questionnaire and
Form 1295 Certificate of Interested Parties

*(Form 1295 is to be completed online by the **Selected Respondent** and submitted to the Texas Ethics Commission pursuant to Government Code 2252.908 and a copy returned to SAHA with the Certification prior to contract execution. A copy of the 1295 Form is included herein for information purposes only).*

NOTE: DO NOT complete the form 1295 prior to being selected and awarded a contract.

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

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

Instructions to Bidders for Contracts

Public and Indian Housing Programs

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1. Bid Preparation and Submission

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

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

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

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

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

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

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

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

2. Explanations and Interpretations to Prospective Bidders

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

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

3. Amendments to Invitations for Bids

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

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

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

4. Responsibility of Prospective Contractor

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

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

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

5. Late Submissions, Modifications, and Withdrawal of Bids

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

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

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

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

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

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

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

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

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

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

6. Bid Opening

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

7. Service of Protest

(a) Definitions. As used in this provision:

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

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

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

Director Of Procurement
San Antonio Housing Authority
818 S. Flores
San Antonio, TX 78204

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

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

8. Contract Award

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

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

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

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

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

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

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

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

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

10. Assurance of Completion

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

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

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

(3) a 20 percent cash escrow;

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

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

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

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

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

11. Preconstruction Conference (applicable to construction contracts)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

General Conditions for Construction Contracts - Public Housing Programs

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

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

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

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

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

The information requested does not lend itself to confidentiality.

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

Clause		Page	Clause		Page
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1. Definitions

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

2. Contractor's Responsibility for Work

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

4. Other Contracts

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

Construction Requirements

5. Pre-construction Conference and Notice to Proceed

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

6. Construction Progress Schedule

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

7. Site Investigation and Conditions Affecting the Work

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

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

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

8. Differing Site Conditions

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

9. Specifications and Drawings for Construction

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

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

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

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

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

10. As-Built Drawings

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

11. Material and Workmanship

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

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

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

12. Permits and Codes

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

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

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

13. Health, Safety, and Accident Prevention

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

14. Temporary Heating

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

15. Availability and Use of Utility Services

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

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

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

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

17. Temporary Buildings and Transportation of Materials

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

18. Clean Air and Water

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

19. Energy Efficiency

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

20. Inspection and Acceptance of Construction

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

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

21. Use and Possession Prior to Completion

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

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

22. Warranty of Title

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

23. Warranty of Construction

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

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

24. Prohibition Against Liens

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

Administrative Requirements

25. Contract Period

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

26. Order of Provisions

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

27. Payments

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

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

- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved submitted not later than 30 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:

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

30. Suspension of Work

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

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

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

31. Disputes

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

32. Default

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

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

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

33. Liquidated Damages

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

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

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

34. Termination for Convenience

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

35. Assignment of Contract

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

36. Insurance

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

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

- (3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$ 500K [Contracting Officer insert amount] per occurrence.
- (b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.
- (c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

37. Subcontracts

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

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

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

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

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

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

39. Equal Employment Opportunity

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

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

- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or handicap.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

40. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

41. Interest of Members of Congress

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

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

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

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

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

44. Royalties and Patents

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

45. Examination and Retention of Contractor's Records

- (a) The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the PHA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

46. Labor Standards - Davis-Bacon and Related Acts

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

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

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

- (2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.
- (3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the

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

- (b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.
- (c) Payrolls and basic records.
- (1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;
- (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to

make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

- (d) (1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under

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

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

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

47. Non-Federal Prevailing Wage Rates

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

48. Procurement of Recovered Materials.

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary
DO NOT COMPLETE. COMPLETED BY AWARDED CONTRACTOR ONLY.			

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

 Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> : Congressional District, if known:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, <i>if applicable</i> : _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Certification of Payments to Influence Federal Transactions

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

Applicant Name _____

Program/Activity Receiving Federal Grant Funding _____

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

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

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

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

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

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

EXHIBIT C
Profile of Firm, Company Biography and
Subcontractors' Listing

PROFILE OF FIRM FORM (Page 1 of 2)

(1) Prime _____ Joint Venture/Partner _____ Sub-contractor _____ (This form shall be completed by and for each).

(2) Legal Name of Firm: _____

dba if applicable: _____

Telephone: _____ Fax: _____

Street Address, City, State, Zip: _____

(3) Identify Principals/Partners in Firm

NAME	TITLE	% OF OWNERSHIP

(4) Please indicate the operating structure of your company.

Publicly Held Corporation
 Privately Held Corporation
 Government Agency
 Non-Profit Organization
 Partnership
 Sole Proprietorship

(5) Respondent's Diversity Statement: You must check all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

Minority- (MBE), or Woman-Owned (WBE) Business Enterprises qualify by virtue of 51% or more ownership and active management by one or more of the following:

African American _____%
 Native American _____%
 Hispanic American _____%
 Asian/Pacific American _____%
 Hasidic Jew _____%
 Asian/Indian American _____%

Woman-Owned (MBE) _____%
 Woman-Owned (Caucasian) _____%
 Disabled Veteran _____%
 Caucasian American (Male) _____%
 Other (Specify): _____%

(6) Is the business 51% or more owned by a public housing resident? ___ Yes; ___ No. If yes, provide name and address of the public housing facility:

Facility Name: _____ Facility Address: _____ City: _____

(7) SWMBE Certification Number: _____

Certification Agency: _____
 (NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED – ENTER IF AVAILABLE)

(8) Federal Tax ID Number: _____

(9) City of San Antonio Business License No.: _____

Company Biography

Company Name: _____

Headquarters Location: _____

Field Office Locations: _____

Business Specialty or Focus: _____

Number of Full Time Staff: _____

Founding Date and Brief History: _____

Texas Projects and/or Clients: _____
(past & current)

Previous Housing Authority Experience: YES NO

List the Authorities: _____

Proposed Subcontractors

Note: A completed Profile of Firm Form must be submitted for each subcontractor.

Proposed Subcontractors					
Item	Company Name	Address	Phone	Specialty	S/W/M/V BE
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
<p>I understand and agree that if awarded a contract as a result of this solicitation that the use of the above subcontractors is subject to the approval of SAHA and becomes a part of the contract. I further understand that any change in subcontractors also requires the pre-approval of SAHA.</p>			<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> (Signature) <div style="border-bottom: 1px solid black; margin-bottom: 5px; margin-top: 10px;"></div> (Printed Name & Title) <div style="border-bottom: 1px solid black; margin-bottom: 5px; margin-top: 10px;"></div> (Company Name)		

EXHIBIT D
Section 3 & SWMBE Guidelines and Forms

SAN ANTONIO HOUSING AUTHORITY

SECTION 3 PROGRAM

CONTRACTOR COMPLIANCE GUIDE

BACKGROUND

The San Antonio Housing Authority (SAHA) adopted a formal Section 3 program, policy, and procedures on June 2, 2011 (Resolution 5164) to provide the framework for its compliance with Section 3 of the Housing and Urban Development (HUD) Act of 1968 which applies to all employment and economic projects funded in whole or in part by HUD.

Therefore, all prime contractors participating on a HUD-assisted project shall comply with all applicable sections of the SAHA Section 3 Program.

The objective of the SAHA Section 3 Program is to ensure to the greatest extent feasible that employment and other economic-related opportunities are directed to low- and very-low income individuals and businesses owned by such individuals.

SECTION 3 GUIDANCE

1. The SAHA Section 3 Program adopted on June 2, 2011 is hereby incorporated by reference as part of this Interim Section 3 Guidance. Notice is hereby given that it is the responsibility of bidder/proposer or contractor to ensure understanding and compliance with all applicable sections of the Section 3 Program. Bidders/proposers and/or prime contractors are directed to the SAHA website for more information on the Section 3 Program.
2. The Section 3 Program requirements apply to all HUD-assisted projects covered by Section 3 and are therefore applicable to SAHA bidders/proposers and recipients of contracts and subcontracts.
3. In order to achieve the Section 3 Program objectives, numerical goals for training/employment and subcontracting opportunities for Section 3 residents and Business Concerns have been established. The Section 3 goals (below) apply to the entire Section 3 covered project and represent minimum numerical goals set forth in the Section 3 Program. In the absence of evidence to the contrary, a contractor that meets the minimum numerical goals will be considered to have complied with the Section 3 Program requirements. SAHA reserves the right to increase project-specific goals as may be deemed appropriate by the SAHA representatives. Contractors are advised to read each solicitation carefully to determine the applicable goals for compliance. In the event the solicitation changes the goals listed below, Contractor must follow the stricter goals.

Employment: Thirty percent (30%) of new hires per contract should be Section 3 residents.

Contracting: Subcontract ten percent (10%) of the total value of a construction contract with Section 3 Business Concerns.

Professional Services: Subcontract three percent (3%) with Section 3 Business Concerns on non-construction contracts (professional services).

3. In order to ensure the greatest impact on employment, contracting and economic opportunities, SAHA contractors and subcontractors shall direct their efforts to Section 3 residents and Business Concerns on a “preference” tiered basis as follows:

Training/Employment

- a) Category 1: Residents of the housing development or developments for which the Section 3 covered assistance is expended.
- b) Category 2: Residents of the other housing developments managed by the housing authority that is expending the Section 3 covered assistance.
- c) Category 3: Participants in HUD Youthbuild programs being carried out in the metropolitan area in which the Section 3 covered assistance is expended.
- d) Other Section 3 residents.

Contracting Opportunities

- a) Category 1: Business Concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3 covered assistance is expended, or whose full-time permanent workforce includes 30 percent of those persons as employees.
- b) Category 2: Business Concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 covered assistance, or whose full-time permanent workforce includes 30 percent of those persons as employees.
- c) Category 3: HUD Youthbuild programs being carried out in the metropolitan area (or non-metropolitan county) in which the Section 3 covered assistance is expended.
- d) Category 4: Business concerns that are 51 percent or more owned by Section 3 residents or whose permanent, full-time workforce includes no less than 30 percent Section 3 residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to Category 1 or 2 business concerns identified above.

4. To more effectively apply the Section 3 preferences, the following incentives shall be applicable to Section 3 HUD-assisted projects:

Solicitations Under \$50,000

On solicitations under \$50,000 and where two or more certified Section 3 Business Concerns are available to compete, SAHA will institute a “first source” solicitation initiative whereby two of the three solicited firms must be Section 3 Business Concerns.

Solicitations Greater than \$50,000

On Requests for Proposals the following incentives will be instituted:

- 1) A twenty percent (20%) preference will be instituted for Category 1 Section 3 Business Concerns bidding as prime contractors.
- 2) A fifteen percent (15%) preference will be instituted for Category 2 Section 3 Business Concerns bidding as prime contractors.
- 3) A ten percent (10%) preference will be instituted for Category 3 Section 3 Business Concerns bidding as prime contractors.
- 4) A five percent (5%) preference will be instituted for Category 4 Section 3 Business Concerns bidding as prime contractors.
- 5) A five percent (5%) preference will be provided to SAHA prime contractors that have achieved both the resident hires and business concern contracting goals in their immediate past contract performance within the last year.
- 6) A five percent (5%) preference will be provided to SAHA prime contractors participating in a SAHA approved Joint Venture or Mentor-Protégé program with an eligible Section 3 Business Concern.
- 7) A five percent (5%) preference will be provided to prime contractors that have formal apprenticeship programs approved by DOL and commit to training no less than ten (10) eligible Section 3 residents through such programs annually that provide no less than 250 hours of formal training.

On Invitations for Bids the following preference will be instituted:

- 1). Contractors who are certified as Section 3 Business Concerns and whose prices are within the independent cost estimate of the project and are both responsive and responsible, shall receive a preference according to the following table, where x is the amount by which the Section 3 Business Concern may be above the lowest responsive bid.

x=lesser of:
<p>When the lowest responsive bid is less than \$100,000 10% of that bid or \$9,000.</p> <p>When the lowest responsive bid is:</p> <p>At least \$100,000, but less than \$200,000 9% of that bid, or \$16,000.</p> <p>At least \$200,000, but less than \$300,000 8% of that bid, or \$21,000.</p> <p>At least \$300,000, but less than \$400,000 7% of that bid, or \$24,000.</p>

At least \$400,000, but less than \$500,000 6% of that bid, or \$25,000.
At least \$500,000, but less than \$1 million 5% of that bid, or \$40,000.
At least \$1 million, but less than \$2 million 4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million 3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million 2% of that bid, or \$105,000.
\$7 million or more 1½% of the lowest responsive bid, with no dollar limit.

2) Where two or more Section 3 business concerns are both responsive and responsible, the Section 3 business concern with the lowest price shall receive the contract award.

A successful contractor's usage of the above preferences shall be capped annually at \$1 million dollars in the aggregate. Once a contractor has been awarded annually \$1 million dollars in contracts as a result of a preference, the contractor is no longer eligible for the above preferences for the remainder of the calendar year.

5. Bidders/proposers must either achieve the Section 3 Program employment and subcontracting goals identified above (under number 3) or demonstrate acceptable good faith efforts to achieve the numerical goals in the proposal/bid. SAHA representatives shall review and deem acceptable, in their sole determination, a bidder or proposer's good faith efforts prior to the award of the contract. Please be advised that a contractor Section 3 performance will be considered and evaluated on future SAHA contracts and will be a factor in the selection and/or contract award.
6. To ensure that the SAHA Section 3 Program benefits individuals and businesses that are eligible Section 3 residents and Business Concerns, all Section 3 resident and Business Concerns must be deemed eligible through documentation of a "Section 3 Eligibility Form" for each eligible individual or business. Notice is hereby given that it is the responsibility of the prime contractor to ensure that all participating and eligible Section 3 residents and/or Business Concerns (vendors, suppliers or subcontractors) submit the necessary information for proper SAHA status review and credit.
7. All SAHA prime contractors must submit a Section 3 program compliance report on a monthly basis in the form and content as requested by SAHA staff. This report shall document Section 3 resident and Business Concern training, employment, and subcontracting monthly performance against goals and opportunities.
8. Failure or refusal by a SAHA bidder/proposer or contractor to satisfy or comply with the Section 3 Program requirements, either during the bid/proposal process or during the term of the SAHA agreement, shall constitute a material breach of contract whereupon the contract, at the option of SAHA, may be cancelled, terminated, or suspended in whole or in part; and, the contractor debarred from further contracts with SAHA as a non-responsible contractor. SAHA may at its discretion also declare bids/proposals not complying with the Section 3 Program requirements in whole or in part nonresponsive and eliminate them from consideration of a contract award.

INTERIM PRIME CONTRACTOR COMPLIANCE REQUIREMENTS

Prime contractors participating on SAHA Section 3 HUD-assisted projects are specifically required to address and satisfy the Section 3 Program requirements described below *prior* to the award of the contract. The Section 3 Program requirements shall be applicable throughout the duration of the contract and to any amendment and renewal.

1. In the absence of evidence to the contrary, a prime contractor that meets the minimum Section 3 Program numerical goals set forth in the solicitation will be considered to have complied with the Section 3 Program requirements. A prime contractor who meets this goal must submit with the bid/proposal a “*Good Faith Effort Compliance Plan*” (**Attachment A**) by simply completing Sections A and B which present the project and contractor information and goal commitment information respectfully.
2. In evaluating compliance, a prime contractor that *has not* met the numerical goals set forth in the solicitation has the burden of fully demonstrating its efforts to achieve the Section 3 goals through the submittal and approval of a “*Good Faith Effort Compliance Plan*” (**Attachment A**) to include completion of Sections A, B and C which must be included with the bid/proposal. SAHA representatives shall review and determine in their sole discretion whether a bidder or proposer’s (contractor) good faith effort compliance plan achieves the Section 3 Program goals and objectives. A responsive good faith effort compliance plan shall address all questions in Sections A, B and C and describe the concrete efforts that were taken and will be taken to reach numerical goals in hiring/employment, training, and contracting. The final agreed-upon plan shall become part of the SAHA contract.
3. SAHA reserves the right to disregard bids/proposals as non-responsive bids and proposals which fail to demonstrate a good faith effort towards compliance with the Section 3 Program requirements.
4. As required under the Section 3 Program’s contractual clause, prime contractors specifically agree to include the Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agree to take appropriate action, as provided in an applicable provision of the subcontract or in the Section 3 Clause, upon a finding that a subcontractor is in violation of the regulations in 24 CFR Part 135. A prime contractor shall not subcontract with any subcontractor where the bidder/proposer has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
5. Prime contractors shall submit a properly completed and executed “Section 3 Eligibility Form” for all participating Section 3 residents and/or Section 3 Business Concerns (**Attachment B**). It is the responsibility of the prime contractor to ensure that eligible Section 3 residents and Business Concerns submit all necessary information for SAHA review and credit, to include an eligible Section 3 prime contractor, if applicable.

6. Prime contractors requesting a Section 3 Program preference based upon employment or ownership interest shall submit a properly completed and executed Section 3 Eligibility Forms for all employees and owners who qualify, and provide any supporting documentation that may subsequently be required by SAHA. Prime contractors and subcontractors must employ any Section 3 residents full-time for not less than one month prior to the submittal of the bid/proposal in order for the prime contractor to receive credit for employing the Section 3 resident for a preference.
7. Notwithstanding the fact that a prime contractor may have the capability to complete a total project with its own workforce and without the use of subcontractors, all SAHA prime contractors on a HUD-assisted project shall be required to achieve the Section 3 Program numerical goals or demonstrate a good faith effort to achieve those goals within the industry. Should the need arise to hire or subcontract during the term of a contract, the hiring and/or subcontracting goals shall still be applicable and the training component remains in force.
8. All changes to the original list of subcontractors submitted with the bid or proposal shall be submitted for review and approval in accordance with SAHA's procedures when adding, changing, or deleting subcontractors/sub-consultants. Prime contractors are required to make a good faith effort to replace any Section 3 Business Concern with another eligible Section 3 Business Concern. SAHA may deny such requests when it finds that a prime contractor fails to provide acceptable justification or when the effect of such change would dilute a preference received on a HUD-assisted contract.
9. All prime contractors participating on a HUD-assisted project shall submit a Section 3 Performance Report no later than the third business day of the following month detailing Section 3 employment and contracting activity not only for themselves but also all subcontractors on the project. The report is to also detail training and other economic opportunity activities by the prime contractor and subcontractors.

SAN ANTONIO HOUSING AUTHORITY SECTION 3 PROGRAM UTILIZATION PLAN

INSTRUCTION SHEET

Please read these instructions carefully before completing the required *Section 3 Utilization Plan* document. These instructions are designed to assist bidders/proposers document Section 3 Program compliance. or present a detailed explanation why, despite their best efforts the minimum numerical goals were not met. These numerical goals are **minimum** targets that must be reached in order for SAHA to consider a recipient in compliance.

Questions regarding completion of the *Section 3 Utilization Plan* document should be directed to: Section 3 Coordinator, at 210 -477 -6165 or section3@saha.org.

- Bidders/proposers are required to make sincere efforts to achieve the Section 3 Program numerical goals as specified in solicitation documents. A bidders/proposers approved Section 3 Utilization Plan will be monitored throughout the duration of the SAHA contractual term.
- Contractor shall submit a *Section 3 Utilization Plan* at the time of bid/proposal submittal in order to be considered responsive.
- This *Section 3 Utilization Plan* is subject to SAHA's review and approval. SAHA may at its sole discretion approve or disapprove the plan. SAHA's determination is administratively appealable to the CEO and to the Board of Commissioners pursuant to SAHA's Section 3 Program, Policy & Procedures.
- All bidders/proposers are to complete the following:

- _____ **Section A**, Bidder/Proposer Information
- _____ **Section B**, Contractor Commitments - New Hires
- _____ **Section C**, Contractor Commitments - Subcontractors
- _____ **Section D**, Contractor Commitments – Other Economic Opportunities
- _____ **Section E**, Good Faith Efforts
- _____ **Section F**, Section 3 Compliance Certification

Optional:

- _____ Certification for Section 3 Business Concerns
- _____ Section 3 Individual Verification Form (S3-6003b REV 2/2016)

- SAHA requires all Section 3 residents and/or Business Concerns to certify or submit evidence to SAHA, contractor, or subcontractor, that the person or business is Section 3 eligible. SAHA has developed a Certification Process for this purpose. It is the responsibility of the Contractor to submit these forms to the SAHA Section 3 Coordinator at section3@saha.org.

SECTION 3 PROGRAM UTILIZATION PLAN

Project Title: _____

SECTION A – BIDDER/PROPOSER INFORMATION

Name of Firm: _____

Contact Person: _____ Telephone: _____

Email: _____

Is your firm a "Section 3 Business Concern": Yes _____ No _____
 If "Yes"; complete the Certification for Section 3 Business Form and attach the Required Documentation.

SECTION B – CONTRACTOR COMMITMENTS – NEW HIRES (If more space is needed, please provide an attachment).

Hiring Goal: A minimum of Thirty percent (30%) of the aggregate number of new hires shall be Section 3 residents

B.1 Explain how you intend to recruit a minimum of 30% of Section 3 residents for **full-time new hires**, and what actions you will use to require subcontractors to do the same. **Note:** Section 3 individuals must work a minimum of 32 hours per week or 135 hours per month to be considered full-time employees.

B.2 Complete the table below to identify the bidder's/proposer's employee positions required for the execution of this project.

Job Category*	Number of Positions to be Filled with Section 3 Residents	Anticipated wages per hour
Professionals		
Technicians		
Office/Clerical		
Officers/Managers		
Sales		
Craft Workers (Skilled)		
Operatives (Semi-Skilled)		
Laborers (Unskilled)		
Service Workers		
Other List & describe		

B.3 The contractor has committed to employ _____ resident(s) in order to comply with its Section 3 requirements. Indicate the estimated percentage of Section 3 new hires for this project: _____

SECTION C – CONTRACTOR COMMITMENTS – SUBCONTRACTORS (If more space is needed, please provide an attachment).

Contracting Goal: A minimum of ten percent (10%) of all covered **construction** contracts shall be awarded to Section 3 business concerns C. Three percent (3%) of all covered **non-construction** contracts shall be awarded to Section 3 business concerns

C.1 Describe how bids from Section 3 businesses will be solicited for subcontracting.

C.2 Complete the table below to identify the subcontractors/suppliers that will be utilized for the execution of this project.

Subcontractor/Supplier Listing

Subcontractor or Supplier/ Name and Address and phone number	Scope of Work/Product	\$ Value	Certified Section 3 Business Concern (Y/N)

(Make Additional Copies as Necessary)

C.3 The Prime Contractor will subcontract with a total of ____ Section 3 Business Concerns totaling ____% of the Contract Value. **NOTE:** *The contractual opportunity goal is a percentage of the total gross dollar value of the proposed contract awarded to a Section 3 eligible Business Concern. SAHA will only credit participation by Section 3 Business Concerns that submit documentation acceptable to SAHA certifying their Section 3 status.*

**SECTION D – CONTRACTOR COMMITMENTS – OTHER ECONOMIC OPPORTUNITIES
(If more space is needed, please provide an attachment).**

B.3 The undersigned bidder/proposer will satisfy the Section 3 *other economic opportunity* goal:
Yes _____ No _____

Please outline your plan to provide other economic opportunities to Section 3 residents. Examples of plans may include training agreements, internship programs, mentorship programs etc.

SECTION E – GOOD FAITH EFFORTS

NOTE: Fill this section only, if Plan as submitted fails to meet the employment and contractual opportunity goals as stated herein or as amended in the solicitation.

D.1 If no contracting, hiring or other economic opportunities are anticipated, briefly explain why.

SECTION F: SECTION 3 UTILIZATION PLAN CERTIFICATION

I CERTIFY THAT I HAVE REVIEWED AND FULLY UNDERSTAND SAHA'S SECTION 3 PROGRAM AND THE SECTION 3 CLAUSE INCORPORATED BY REFERENCE INTO THIS DOCUMENT. I HEREBY AFFIRM THAT THE INFORMATION SUBMITTED HEREIN IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

I HEREBY CERTIFY THAT THE ABOVE TABLES IDENTIFY THE NUMBER OF SECTION 3 BUSINESS CONCERNS THE COMPANY WILL UTILIZE AND THE NUMBER OF SECTION 3 RESIDENTS THE COMPANY PROPOSES TO EMPLOY.

I FURTHER UNDERSTAND AND AGREE THAT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE SAHA CONTRACT.

NAME AND TITLE OF AUTHORIZED OFFICIAL:

SIGNATURE: _____ DATE: _____

San Antonio Housing Authority

Section 3 Individual New Hire Verification Form

NEW HIRES MUST COMPLETE THIS FORM. The Section 3 Program requires that recipients of certain HUD financial assistance, to the greatest extent feasible provide employment, training or education opportunities for low- and very-low income persons in connection with projects and activities in their neighborhood. Completion of this form helps your new employer and SAHA monitor compliance to the Section 3 program and may help in obtaining future business with the Housing Authority. Your information is kept CONFIDENTIAL and will not affect any federal subsidies you currently receive, if any.

CONTACT INFORMATION					
First Name:	Last:	M.I.:	Suffix:		
Residence Address:			City:		
State:	Zip:	County:		Phone:	
Email Address (required):				DOB:	
Date of Hire:		Company Name:			
Job Title:		Type of job:		Full-Time (32+ hours per week)	Part-Time

INCOME DISCLOSURE (CHECK ONE OPTION BELOW)
--

In order to be eligible as a Section 3 individual, your household income must meet the income criteria by household size. Individuals are eligible for Section 3 status if their household income is at or below 80% of Area Median Income in Bexar County during the current calendar year or be a resident of public housing or Section 8.

Option 1: I choose to disclose this information

Choose the number of individuals in your household in the chart below to determine your HUD income limit. The dollar amount below the number you indicate is your HUD income limit.

FY 2020 80% Area Median Income Limits (by Household Size)

Number of persons in household	1	2	3	4	5	6	7	8
80% of Area Median Income (FY 2020 HUD Income Limits)	\$40,350	\$46,100	\$51,850	\$57,600	\$62,250	\$66,850	\$71,450	\$76,050

YOU MUST ANSWER THE FOLLOWING QUESTIONS IF YOU ARE CLAIMING SECTION 3 ELIGIBILITY:

Is your household income at or below the HUD income limit for the current year? **Yes** **No**

If your answer is YES and you reside in Bexar County, you are a Section 3 individual, regardless of public housing status.

Are you a resident of public housing or Section 8? **Yes** **No**

If your answer is YES, you are a Section 3 individual regardless of your income.

Option 2: I choose NOT to disclose this information OR I do not qualify as a Section 3 eligible individual.

CERTIFICATION

By signing, I authorize my employer to release relevant information to the San Antonio Housing Authority (SAHA) for contract compliance purposes. I further affirm that the information on this form is to the best of my knowledge and belief true, correct, and complete.

Signature _____

DATE: _____

M/WBE UTILIZATION STATEMENT
SAN ANTONIO HOUSING AUTHORITY
M/WBE PROGRAM OFFICE

Please read these instructions carefully before completing the required Minority/Women Business Enterprise (M/WBE) Utilization Statement. These instructions are designed to assist prime contractors/consultants document M/WBE program compliance or in preparing the required detailed and complete good faith effort information.

Contractors/Consultants are required to submit detailed documentation when the contract specified M/WBE participation ranges or goals are not met. The SAHA M/WBE Program Manager will review and consider a bidder's or proposer's good faith efforts in assisting SAHA to meet its M/WBE policy and program objectives.

A. Bidders/Proposers are required to make sincere efforts in attempting to achieve the applicable SAHA M/WBE participation ranges or goals. The approved M/WBE participation ranges or goals will be monitored throughout the duration of the project;

B. All bidders/proposers are to complete Section A, Project Identification and Section B, Project M/WBE Utilization, if applicable. Should there be subcontracting/sub consulting opportunities, yet the bidder/proposer *not* achieve the project's applicable M/WBE participation range or goal, the bidder/proposer must complete all other sections of the Statement.

C. This Statement should be prepared by the company's project M/WBE Coordinator or designee. The Statement must be signed and dated by an authorized company official. The Coordinator or designee should have a working knowledge as to the project's subcontracting or sub-consulting and supplier activities (actual and anticipated). This individual shall be a key figure in directing the prime contractor's M/WBE activities.

D. The M/WBE Utilization Statement demonstrating a contractor's good faith efforts is subject to the SAHA M/WBE Program Coordinator's review and approval.

E. SAHA requires all M/WBE firms to be certified as such by an entity acceptable to SAHA for project M/WBE credit.

F. SAHA reserves the right to approve all additions or deletions of subcontractors, subconsultants, and/or major vendors. In the event that an M/WBE subcontractor, subconsultant, and/or major vendor is replaced, the contractor must make a good faith effort to involve and utilize another M/WBE subcontractor, sub consultant, and/or major vendor.

Should you have any questions or need additional information, please contact:

Candace Morin
818 S Flores
Section 3/SWMBE Coordinator
candace_morin@saha.org
210-477-6165

FOR SAHA PROCUREMENT DEPARTMENT USE ONLY

Reviewed by: _____

Date: _____

Signature of SAHA Official: _____

Recommendation: Approval: _____ Denial: _____

subject to the SAHA M/WBE Program Manager's review and approval.

M/WBE UTILIZATION STATEMENT
 SAN ANTONIO HOUSING AUTHORITY
 M/WBE PROGRAM OFFICE

SECTION A: PROJECT IDENTIFICATION

Project Number _____ Project Title _____

Contract Amount _____ Company Name _____

Project Participation Range/Goal: M/WBE ____ %

Contract Anticipated Participation Range: M/WBE ____ %

The M/WBE participation range/goal is expressed as a percentage of the total dollar amount of the prime contract awarded to M/WBEs. The goal is applicable for those areas, which the prime contractor has subcontracted, sub-consulted, and/or major supplies necessary in the performance of the contract.

SECTION B: SUBCONTRACTOR/SUB CONSULTANT/VENDOR UTILIZATION

1. List all actual *and* anticipated subcontracts, subconsultants, and/or major material purchases, include *both* M/WBE and non-M/WBE, to be utilized on the project (*use additional sheets if necessary*).

TRADE AREA	ESTIMATED AMOUNT (\$)	SUB/SUPPLIER	SUB/SUPPLIER	
			M/WBE	Yes (✓) No

2. MBE utilization in total dollars: _____ WBE utilization in total dollars: _____

3. Overall MBE utilization percentage (%): _____

4. Overall WBE utilization percentage (%): _____

5. Overall M/WBE utilization percentage (%): _____

6. Anticipated M/WBE utilization on this contract will occur:

Throughout ___ Beginning 1/3 ___ Middle 1/3 ___ Final 1/3 ___

Please Note: SAHA will credit only those M/WBEs that have been certified by an entity acceptable to SAHA. All changes, additions, or deletions occurring during the life of this contract relative to use of the listed subcontractors, sub-consultants and/or

major suppliers, M/WBE or otherwise, must be submitted to SAHA for review and approval.

If Bidder/Proposer is unable to meet the M/WBE participation range/goal, please proceed to complete Section C and submit documentation demonstrating contractual good faith efforts.

SECTION C: GOOD FAITH EFFORT

The following items are minimally considered as good faith efforts and demonstrate specific initiatives made in attempting to achieve SAHA’s M/W/BE participation ranges. The bidder/proposer is not limited to these particular areas and may include other efforts deemed appropriate. Please feel free to elaborate on any question below.

Required Questions	Yes	No
1. If applicable, was your company represented at the pre-bid conference?		
2. Did your company request and obtain a copy of the certified M/WBE firms?		
3. Were M/WBE firms solicited for contract participation?		
4. Provide listing of solicited M/WBEs with whom contact was made? Please identify name of company, contact person, date, phone number and briefly describe nature of solicitation. (Include as an Attachment)		
5. Was direct contact made with SAHA’s M/WBE Program Office? If yes, please identify date/person contacted and assistance sought. (Include as an Attachment)		
6. Identify all M/WBE support agencies/associations contacted for M/WBE assistance or solicitation (Minority Chamber’s of Commerce, purchasing councils, contractor groups, etc.). (Please attach copies of solicitation letters of assistance and/or describe, as an Attachment to this section, the personal contact made)		
7. Were bid opportunities related to this project advertised in minority/women newspapers and trade journals? (If yes, please include a copy of the advertisement or detail the name of the publication(s), date of advertisement and describe the solicitation)		
8. Were copies of plans and specification furnished to any M/WBEs?		
9. Were subcontractors, subconsultants, and/or suppliers (if applicable) required to provide insurance or be bonded? (If yes, please detail any assistance that was provided or if they were referred, to whom)		
10. List, as an Attachment, all M/WBE bids received but rejected. Identify company name, contact person, telephone number, date, trade area, and the reason for rejecting the bid/proposal.		
11. Discuss any other effort(s) aimed at involving M/WBEs (Include as an Attachment) : (a) Identify any specific efforts to divide work, in accordance with normal industry practices, to allow maximum M/WBE participation.		

(b) Discuss joint ventures initiatives, requesting second-tier M/WBE subcontracting, etc., if any.		
(c) List all other good faith efforts employed, please elaborate.		

The undersigned acknowledges and states that all information submitted as part of this Good Faith Effort Statement is true and correct to the best of his/her knowledge. I further agree that this document shall be attached thereto and become a binding part of the SAHA contract.

Print Name

Title Date

Signature

Telephone Number

EXHIBIT E

Proposal Checklist and Certification

Proposal Checklist and Certification (Exhibit E)

(This Form must be fully completed and placed under Tab No. 8 of the proposal submitted.)

Instructions: Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an “X,” where provided, to verify that the referenced completed form or information has been included within the “hard copy” proposal submittal submitted by the Respondents. Also, complete the Section 3 Statement and the Respondent’s Statement as noted below:

X=ITEM INCLUDED	SUBMITTAL ITEMS
_____	Tab 1 Form of Proposal and Cost
_____	Tab 2 HUD Forms, Conflict of Interest Questionnaire, Form 1295
_____	Tab 3 Profile of Firm, Company Biography, Subcontractors List
_____	Tab 4 Evaluation Criteria Response
_____	Tab 5 Section 3 Business Preference
_____	Tab 6 Small/Woman/Minority/Disadvantaged/Veteran Business Enterprise Utilization Plan
_____	Tab 7 Section 3 Good Faith Effort Compliance Plan
_____	Tab 8 Proposal Checklist and Certification

SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES___ or NO___. If “YES,” pursuant to the documentation justifying such submitted under Tab No 8, which category are you claiming?

- _____ Category I – Owned by a public housing resident where work is performed
- _____ Category II – Owned by any other public housing resident
- _____ Category III – HUD Youth Build Program
- _____ Category IV – 30% of workforce is Section 3 qualified or sub-contract greater than 25% of contract value to certified Section 3 Business Concern

Respondent's Certification

By signing below, Respondent certifies that the following statements are true and correct:

1. He/she has full authority to bind Respondents and that no member of Respondent's organization is disbarred, suspended or otherwise prohibited from contracting with any federal, state or local agency,
2. Items for which Proposals were provided herein will be delivered as specified in the Proposal,
3. In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.,
4. Respondents agrees that this proposal shall remain open and valid for at least a period of 90 days from the date of the Proposal Opening and that this Proposal shall constitute an offer, which, if accepted by SAHA and subject to the terms and conditions of such acceptance, shall result in a contract between SAHA and the undersigned Respondents,
5. He/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Proposal,
6. Respondents, nor the firm, corporation, partnership, or institution represented by the Respondents, or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State of Texas or the Federal Antitrust laws, nor communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business,
7. Respondents has not received compensation for participation in the preparation of the specifications for this RFP,
8. Non-Collusive Affidavit: The undersigned party submitting this Proposal hereby certifies that such Proposal is genuine and not collusive and that said Respondents has not colluded, conspired, connived or agreed, directly or indirectly, with any Respondents or person, to put in a sham Proposal or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the Proposal price of affiant or of any other Respondents, to fix overhead, profit or cost element of said Proposal price, or that of any other Respondents or to secure any advantage against SAHA or any person interested in the proposed contract; and that all statements in said Proposal are true.
9. Child Support: Pursuant to Section 231.006 (d) of the Texas Family Code, regarding child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
10. Lobbying Prohibition: 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.

_____	_____
Signature	Date
_____	_____
Printed Name	Company

E-mail address if available	
_____	_____
Phone	Fax

EXHIBIT I Insurance Requirements

Contractor is required to have in place during the term of the contract the following minimum insurance requirements. Contractor will be required to provide an original Certificate of Insurance to SAHA within 10 days of contract signature:

Professional Liability	Required Limits
SAHA and its affiliates must be named as a Certificate Holder. This is required for vendors who render observational services to SAHA such as appraisers, inspectors, attorneys, engineers or consultants.	\$1,000,000 Not Required for this contract.
Business Automobile Liability	Required Limits
SAHA and its affiliates must be named as an additional insured and as the certificate holder. This is required for any vendor that will be using their vehicle to do work on SAHA properties.	\$500,000 combined Single limit, Per occurrence
Workers Compensation and Employer's Liability	Required Limits
Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000. Workers' Compensation is required for any vendor made up of more than two persons. <u>A Waiver of Subrogation in favor of SAHA must be included in the Workers' Compensation policy.</u> SAHA and its affiliates must be a Certificate Holder.	Statutory Employer's Liability is \$500,000
Commercial General Liability	Required Limits
This is required for any vendor who will be doing hands on work at SAHA properties. SAHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.	\$1,000,000 per accident \$2,000,000 aggregate
Builder's Risk	Required Limits
Builder shall carry Builder's Risk to cover the loss of materials, and/or the building under construction/rehabilitation. SAHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.	Equal to the Contract Cost of the construction or rehabilitation project in the Notice to Proceed.