



## HOUSING COMMISSION OF ANNE ARUNDEL COUNTY

7477 BALTIMORE-ANNAPOLIS BLVD.

GLEN BURNIE, MD 21061

(410)222-6200 ♦ FAX (410)222-6214 ♦ TDD-MDRELAY711

### INVITATION TO BIDDERS

The Housing Commission of Anne Arundel County (HCAAC) will accept bids for the:

#### **Pinewood East Canopy Replacement, 7900 Benesch Circle, Glen Burnie, MD 21060**

This work includes furnishing all labor, materials, equipment and services necessary for improvements as indicated in the drawings located at the end of this document.

***Bids will be received until 1:00 pm EST on Monday, March 4, 2020 at the Office of Mike Hale, Modernization Director***

***7477 Baltimore Annapolis Blvd, Suite 301, Glen Burnie, Maryland 21061.***

***Questions may be directed to Mike Hale, [mchale@hcaac.org](mailto:mchale@hcaac.org) or 410-222-6200 x 1200, by February 24, 2020 1:00 pm EST***

#### ***MINORITY CONTRACTORS ARE ENCOURAGED TO RESPOND TO THIS INVITATION AND ANNOUNCEMENT EOE/MF***

All responsive bids will contain the following:

1. The completed Bid Form, signed as required (contained in the Bid Package)
2. A certified check or bank draft payable to the Housing Commission of Anne Arundel County, U.S. Government bonds, or a satisfactory bid bond executed by the bidder and acceptable to sureties in an amount equal to five percent (5%) of the bid;
3. A notarized non-collusive affidavit (contained in the Bid Package);
4. Statement of Bidder's Qualifications and Equipment including a recent certified Financial Statement (contained in the Bid Package);
5. Certifications on Equal Employment Opportunity required by Section 3 of the Housing and Urban Act of 1968 as amended. The target area of purposes of Section 3 compliance (contained in the Bid Package);
6. Any subcontractors to be used on the contract (contained in the Bid Package).
7. Completed HUD Form 2530, Previous Participation, if bid is over \$50,000 (contained in the Bid Package);
8. Certificate as to Individual, Partnership or Corporate Principal (contained in the Bid Package).
9. Completed HUD Form 5369-A, Representations, Certifications, and Other Statements of Bidders (contained in the Bid Package);

Please be advised that all successful bidders are required to comply with Section 3 of the Housing and Urban Development Act of 1968, as amended by Section 118 of Title 1, Community Development and Housing Act of 1974, as well as Executive Order 11478. Attention is called to the fact that no less than the minimum salaries and wages as set forth in the contract documents must be paid on this project in addition to providing weekly payrolls through the term of the contract.

It shall be the Bidder's responsibility to make an inquiry as to the addenda issued.

The successful bidder will be required to furnish and pay for a satisfactory Performance and Payment Bond from a U.S. Government-approved surety, per Treasury Department Circular 570, current revision, in the full amount of the contract as awarded; or an irrevocable Letter of Credit in the amount of 25% of the Contract price; or a cash escrow in the amount of 20% of the Contract price, in accordance with C.I.A.P. Handbook 7485.1, Revision 4, Chapter 9, page 9-4, paragraph G, dated 12/20/89 and the Comprehensive Grant Program Handbook 7485.3, dated march 1992, Chapter 11-5; as well as evidence of current Personal Injury, Property Liability, and Workmen's Compensation;

This documentation shall be made available to the Housing Commission within ten days of the notification of the award of contract.

Furthermore, the successful bidder must provide a letter instructing their insurance/security carriers to provide third party notification to the Modernization Director of the Housing Commission of Anne Arundel County if and when any changes occurs in their bonding, Personal Injury, Personal Liability, or Workers Comprehensive Coverage.

Contracts will be awarded to the lowest responsible bidder not on HUD's list of ineligible contractors, provided the bid is reasonable, and in the best interest of the Housing Commission of Anne Arundel County, and the bidder has complied with all applicable laws.

The Housing Commission of Anne Arundel County reserves the right to reject any or all bids and to waive any informalities in the bidding wherever it is in the best interests of the Housing Commission.

No bid shall be withdrawn for a period of sixty (60) days subsequent to the opening of bids without the written consent of the Housing Commission of Anne Arundel County.

## **INSTRUCTIONS TO BIDDERS**

### **1. STATEMENT OF BIDDER'S QUALIFICATIONS:**

The HCAAC will require a Statement of Qualifications on the form furnished for that purpose relative to the bidder's financial resources, construction work experience, and organization and equipment available for the work contemplated. The HCAAC shall have the right to take such steps as it deems necessary to determine the ability of the bidder to perform the work and the bidder shall furnish the HCAAC all such information and data for this purpose as the HCAAC may request. The right is reserved to reject any bid where an investigation of the available evidence or information does not satisfy the HCAAC that the bidder is qualified to properly carry out the terms of the specifications.

The following information should be contained in the statement of Bidder's Qualifications:

- a. Number of years' experience in the specified work, and specifically the number of years in the Baltimore-Washington Metropolitan Area - including Anne Arundel County.
- b. Specific, relevant experience in the remodeling, renovation and reconstruction of similar projects. List projects, location, size in square feet, date of completion, Owner with contact name and phone number.
- c. Experience in the remodeling, renovation and reconstruction of sites, buildings or portions of buildings that have remained occupied during construction.

### **2. CORRECTIONS:**

Erasures or other changes in the bid must be dated and initialed over the signature of the Bidder.

### **3. REJECTION OF BIDS:**

In determining the successful bidder, the following elements in addition to those mentioned will be considered: whether the bidder involved (1) maintains a permanent place of business; (2) has adequate plant equipment available to do the work properly and expeditiously; (3) has suitable financial resources to meet the obligations concurred in doing the work; (4) has appropriate technical experience; (5) has made a good faith effort to employ area residents; (6) has made a good faith effort to solicit bids from minority or female owned business enterprises and the extent to which said bidder is successful in this regard.

### **4. INSPECTION OF SITE BY BIDDERS:**

All bidders should visit the project site and familiarize themselves with local conditions affecting the work. In order to do this; bidders shall make appointments to visit the site by calling 410-222-6200, ext 1200 between the hours of 9:00 A.M. and 3:00 P.M., Monday through Friday.

### **5. EQUAL EMPLOYMENT OPPORTUNITY:**

Pursuant to Executive Orders 11246 and 11375, the Contractor shall be required to provide equal opportunity and shall not discriminate against any person because of his or her race, color, creed, sex, or national origin.

### **6. SALES AND USE TAX:**

The HCAAC is a political subdivision of the State of Maryland and sales to it are exempt from Maryland Sales Tax. HCAAC does not issue its Tax ID number for the purchase of materials by Contractors under the terms of Construction Contracts.

### **7. BASE BID:**

The Base Bid shall be a lump sum amount for all the required work. If requested within the Bid Form, unit prices may be given for specified materials and work.

### **8. LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS**

- a. Any bid received at the HCAAC location designated in the solicitation after the exact time specified for receipt will not be considered. See Article 5, Instruction to Bidders
- b. Any modification or withdrawal of a bid is subject to the same conditions as in (1) above. A bid may also be withdrawn in person by a bidder or its authorized representative, provided its identity is made known and he/she signs a receipt for the bid, but only if the withdrawal is made prior to the exact time/date set for receipt of bids. See Article 8, Instructions to Bidders.

### **9. WITHDRAWAL OF BIDS:**

Expand Article 8, Withdrawal of Bids to include: No Bid may be withdrawn within 60 days after date of opening of bids.

### **10. PRODUCT AND MATERIALS SUBSTITUTION:**

In order that the bid may be considered responsible, the Bidder must bid on that which is specified and provide all data specified in this Project Manual. The selection of material and equipment specified in this Project Manual are for setting the standard of quality, performance, and capacity required. Where trade names or catalog numbers are used, such references serve the sole purpose of establishing acceptable quality and performance standards of the desired product, and any other products, which meet the intent of such quality, and performance standards are also acceptable. Materials and equipment submitted by the Contractor for substituting the specified material and/or equipment shall meet or exceed the standards of the materials and equipment specified.

All requests for substitutions of products, materials or methods from that listed in the specifications must be submitted to the Director of Modernization writing, **at least seven (7) calendar days prior to the bid opening date**. This request must be accompanied with documentation of product performance from the manufacturer with an explanation of any differences in performance standard from the specified product. Each such request shall include a complete description of the proposed substitution, the name of the material or equipment for which it is to be substituted, drawings, cuts, performance and test data, and any other data or information necessary for a complete evaluation. If the Modernization Department accepts that product, all other bidders shall be notified by Addendum of the acceptability of this product.

After the bid opening, products, materials or methods may not be substituted unless they were included in the bid or unless such becomes subsequently unavailable due to reasons beyond the control of the Contractor and approved by the Representative of HCAAC.

**11. PRE-CONSTRUCTION CONFERENCE AND PLAN OF OPERATION:**

Before issuance of the "NOTICE TO PROCEED", the Contractor shall be required to attend a pre-construction conference at which time it shall submit to the HCAAC a written plan of operations. This plan shall outline the Contractor's Schedule for completing the contract work within the time allotted for completion, and shall include such items as:

- a) Sequence of Work;
- b) Available equipment and materials;
- c) Labor force;
- d) Labor recruitment source;
- e) Listing of Subcontractors;
- f) Any other pertinent data.

**12. NOTICE TO PROCEED:**

Upon approval of the contract documents and the Contractor's plan of operations, the HCAAC shall issue a written "NOTICE TO PROCEED", to the Contractor. Absolutely no work may commence prior to issuance of the "Notice to Proceed".

## GENERAL FEDERAL PROVISIONS FOR CONSTRUCTION CONTRACTS OF \$100,000.00 OR MORE

The following general federal provisions are a part of this Contract and do not require submittal of additional documentation, forms, reports, or certifications, except in unusual circumstances.

1. Interest of Local Public Officials. No member of the governing body of Anne -Arundel County, Maryland (referred to herein as "the County") and no other public official of the County who exercises any Exactions or responsibilities in the review or approval or the carrying out of the project or program to which this Contract pertains shall have any personal interest, direct or indirect, in this Contract.
2. Interest of Certain Federal Officials. No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share in or part of this Contract or to any benefit to arise there from
3. Interest of Contractor. The Contractor covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, in the project area or any parcels therein, or any other interest which would conflict with the performance of this contract and covenants that no person having any such interest shall be employed.
4. Subcontracts and Other Contracts. The Contractor will certify that all contracts with applicants, recipients, subcontractors, and consultants contain the applicable federal requirements.
5. Access to Records. The Corporation, the County, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcriptions.
6. Retention of Records. All required records pertinent to this Contract shall be retained by the Contractor for 4 years after final payment is made. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 4-year period. The records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 4-year period, whichever is later.
7. Accessibility. Every building or facility (other than a privately-owned residential structure) designed, constructed, or altered as a result of this Contract and made available through federal financial assistance, shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 24 CFR Part 8 Subpart A. Section 8.4 of the Fair Housing Amendments Act of 1988, and Section 303 of the Americans with Disabilities Act of 1990.
8. Lead-Based Paint Requirement. The Contractor and all subcontractors, vendors, and consultants shall comply with 24 CFR 35: Prohibition of Use of Lead-Based Paint and Elimination of Lead-Based Paint Hazard, when applicable to projects or programs resulting from this Contract.
9. Clean Air and Water Pollution. The Contractor and all subcontractors, vendors, and consultants shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U. S. C. et. seq.) and Federal Water Pollution Control Act (33 U. S. C125 et. seq.), as amended, when applicable to projects or programs resulting from this Contract.Energy Conservation. The Contractor and all subcontractors, vendors, and consultants shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L.94-163,89 Stat. 871).
11. Eligibility of Contractor and Exclusion of Entities Debarred from Federally Funded Contracts. The Contractor certifies that neither the Contractor nor any person or firm who has an interest in the Contractor's firm is ineligible to be awarded contracts utilizing federal funds. The Contractor shall refrain from entering into any contract or contract modification with an applicant, recipient, contractor, subcontractor, vendor, or consultant debarred from contracts funded in whole or in part with federal funds or from participation in HUD programs.
12. Lobbying Certification. In accordance with the Housing and Community Development Act of 1974, as amended, and with 24 CFR 570.303 of the Community Development Block Grant regulations, the Contractor certifies that:
  - a) No federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 the awarding of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract;
  - b) If any funds other than federal appropriated funds have been paid or will be paid to any person for attempting to attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative contract, it will complete and submit Standard Form, "Disclosure Form to Report Lobbying", in accordance with its instruction, and
  - c) The Contractor will require that this language will be included in the award of contracts to all subcontractors, suppliers, and vendors related to this contract.
13. Submittal of Certifications, Forms and Reports. The Contractor must complete and, if applicable, require all subcontractors to complete all certifications, forms, and reports specified in this Contract in a manner acceptable to the Corporation. Interim and/or final payments may be withheld by the Corporation pending receipt and approval by the Corporation of these certifications, forms, and reports.

# Certification Regarding Debarment and Suspension

## Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**Instructions for Certification (B)**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant		Date
Signature of Authorized Certifying Official		Title

## **INSURANCE REQUIREMENTS**

### **Insurance Required of Construction Contractors**

**1. General:** The Contractor and each Subcontractor is responsible for his own insurance. This section explains the types, amounts, and limits of insurance coverage required of contractors doing work at the site of a project owned by the Housing Authority.

a) All required insurance shall be carried with financially responsible insurance companies and shall be kept in force until the contractor's work is accepted, and taken over by the Housing Authority.

b) Should any primary contractor, subcontractor, or sub-sub-contractor commence work of any nature at the project site without first having the required approved insurance in force, the Housing Authority shall immediately cause such work to be stopped until the infraction of contract requirements has been cleared. Any delay in contract performance which results from failure to comply with contract requirements shall be the sole responsibility of the primary contractor under whose supervision the infraction occurred.

### **2. Workmen's Compensation:**

The Housing Authority shall require each contractor and subcontractor to carry Workmen's Compensation Insurance for all employees engaged in operations under the Construction Contract, and provide statutory Workers' Compensation benefits covering all of their employees with respect to whom death or bodily injury claims could be asserted, as required under Maryland Law, and Employer's Liability with limits of at least \$100,000 each accident, \$100,000 each employee disease, and \$500,000 disease policy limit;

### **3. Comprehensive General Liability:**

The Housing Authority shall require each contractor to carry comprehensive general liability insurance, with bodily injury and property damage limits of not less than \$1,000,000 per occurrence (or such higher amount as the Housing Authority may require based on the trend in injury and/or death claims and damage to the property of others as a result of accidents) which may occur at the project site from operations under the Construction Contract and subcontracts. The insurance shall cover the use of all equipment, hoists, and vehicles on the project site.

### **4. Builders Risk:**

a) **Extent of Coverage:** The Housing Authority shall require the contractor to carry Builders Risk (fire and extended coverage) Insurance on all work in place and/or material stored at the building site, including foundation and building equipment. The contractor installing equipment supplied by the Housing Authority, such as ranges and refrigerators, shall carry insurance on the equipment from the time he takes possession thereof until issuance of the final Certificate of Completion. Builders Risk Insurance need not be carried on excavations, piers, footings, or foundations until work on the superstructure is started. Builders Risk Insurance is not required to be carried on landscape work.

b) **Risks to Be Covered:** The Builders Risk Insurance policy or policies shall provide for fire and extended coverage insurance for the benefit of the contractor, his subcontractors, and the HCAAC as their interests may appear against loss by fire, lightning, windstorm, hail, explosion, riots, riot attending a strike, aircraft, vehicle, and smoke damage. In localities particularly susceptible to earthquake disturbances, additional Builders Risk Insurance against loss by earthquake may be included if desired. Policies shall furnish coverage at all times for the full cash value of all completed construction as well as materials or equipment in place and/or stored at the site, whether or not partial payment has been made by the HCAAC. In some localities, windstorm coverage under the usual form of Builders Risk policies does not attach until the exterior of the Building is finally closed with all windows and doors permanently in place. Such policies should be endorsed to cover buildings in all stages of construction or reconstruction. If specific buildings are accepted and taken over for occupancy by the HCAAC, the contractor may terminate his insurance at such time on such buildings and the HCAAC shall provide fire and extended coverage insurance on such buildings thereafter.

c) **Cancellation Provision:** The HCAAC require that each Builders Risk policy carried by the contractor provide for at least 30 days' prior notice by the contractor of insurance company before the cancellation becomes effective.

### **5. Automobile Liability:**

Insurance with minimum limits coverage at \$1,000,000 each occurrence for property damage and \$1,000,000 each occurrence for bodily injury

### **6. Excess Liability**

Coverage in the form of an umbrella endorsement over all of the above in an amount of not less than \$2,000,000.

## **7. Evidence of Contractor's and Subcontractor's Insurance Coverage:**

- a) Before a fly work begins, the contractor and each subcontractor are required to furnish the HCAAC with evidence (which may be in the form of a certificate) that the required Workmen's Compensation and comprehensive general liability insurance are in force. Before work has begun on the superstructure, the contractor is required to furnish similar evidence that the required Builders Risk Insurance is in force. Two copies of each certificate or other evidence are to be submitted. Upon request, one copy of each shall be sent to the HCAAC Project Manager.
- b) Insurance which expires before the contractor's work is accepted and taken over by the HCAAC is to be renewed and evidence thereof submitted to the HCAAC.
- c) If the Builders Risk policy is written on a reporting form, two signed copies of each report to the insurance company showing periodic value increases, shall be sent to the HCAAC by the contractor. Upon request, one copy of each report shall be sent to the HCAAC Project Manager.

## **8. Maintenance of Records:**

The HCAAC shall maintain an insurance record of policies carried by each contractor and his subcontractors to make certain the required coverage's are kept in force as required by the contracts. The records shall contain, at minimum, the following information: name and address of insurance company, policy number, type of coverage, amount of insurance, effective date of policy, and the expiration date of the policy. In order that the HCAAC may insure that all required coverage's are kept in force, all insurance companies writing the contractor's policies shall issue a Certificate of Insurance and give the HCAAC 30 days' prior notice of any cancellation or material change in their policy.

## **SUMMARY OF EEO**

### **SUMMARY OF APPLICABLE EQUAL OPPORTUNITY LEGISLATION AND EXECUTIVE ORDER**

In accordance with Executive Order 11246 of September 24, 1965, as amended, and as implemented by Department of Labor regulations 41 CFR Chapter 60, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Equal Opportunity Clause, the Certification of Non-Segregated Facilities, and the Certification of Compliance with Affirmative Action Requirements for Equal Employment Opportunity, which are included in this section, are mandated by this Executive Order and the implementing regulations.

In accordance with Title VI of the Civil Rights Act of 1964, there shall be no discrimination on the basis of race, color, or national origin in activities covered by this Contract.

In accordance with Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, no person shall be excluded from participation in, be denied the benefits of or be subjected to discrimination in activities covered by this Contract, including employment, on the ground of race, color, national origin, sex, or religion, either directly or through contractual, licensing, or other arrangements.

Section 109 also applies to this Contract any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975.

Section 109 also applies to this Contract any prohibition against discrimination with respect to an otherwise qualified person with disabilities, as provided in Section 504 of the Rehabilitation Act of 1973. In accordance with the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, there shall be no discrimination against persons with disabilities regarding employment or other economic opportunities resulting from this Contract.

### **THE EQUAL OPPORTUNITY CLAUSE**

*Inclusion of the following clause in this Contract is required by Executive Order 11246 of September 24, 1965, as amended, and as implemented by Department of Labor regulations 41 CFR Chapter 60. It contains the following important provisions:*

- *nondiscrimination in employment and treatment during employment,*
- *notices to be posted at the job site,*
- *equal employment opportunity statement in solicitation and advertising,*
- *notification to labor unions,*
- *agreement to comply with all provisions of Executive Order 11246,*
- *agreement to furnish required reports,*
- *agreement to permit access to records,*
- *sanctions and remedies for non-compliance, and*
- *inclusion of clause in all subcontracts and obligation of Contractor to help enforce it.*



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

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, and available to employees and applicants for employment, notices to be provided setting forth the provision of this nondiscrimination clause.
2. The contractor will, 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, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor unions or worker's representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's non-compliance with the nondiscrimination clauses of the contract or with any of the said rules, regulations, or orders, 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 in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: *Provided, however*, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**NON-SEGREGATED FACILITIES**

(General Contractor submit as part of Contract. Subcontractors submit before beginning work on the project.)

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

Company Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Tax Identification Number: \_\_\_\_\_

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

Is Company  General Contractor or  Subcontractor on this project? (Check one)

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

The Contractor certifies that no segregated facilities are or will be maintained or provided for the Contractor's employees at any of the Contractor's establishments, and that the Contractor's employees do not and will not be permitted to perform their services at any location under the Contractor's control where segregated facilities are maintained.

The Contractor further agrees (except if the Contractor has obtained identical certifications from proposed Subcontractors for specific time periods) that, prior to entering into subcontracts that exceed \$10,000 and are not exempt from the Equal Opportunity Clause, the Contractor will

1. Obtain identical certifications from proposed Subcontractors
2. Retain the certifications in its files; and
3. Forward the following notice to proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

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

The Contractor agrees that a breach of this certification or a breach of a Subcontractor's identical certification is a violation of the Equal Opportunity Clause in the Contract. The penalty for making false statements in these certifications is prescribed in 18 U.S.C. 1001.

\_\_\_\_\_  
Signature of Officer or Owner of Company Date

\_\_\_\_\_  
Printed Name and Title of Signatory Above:

**COMPLIANCE AA/EEO**

**CERTIFICATION OF COMPLIANCE WITH AFFIRMATIVE ACTION  
REQUIREMENTS FOR EQUAL EMPLOYMENT OPPORTUNITY**

(General Contractor submit as pad of Contract. Subcontractors submit before work begins.)

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

Company Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Tax Identification Number: \_\_\_\_\_

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

Signature of Officer or Owner of Company: \_\_\_\_\_

Printed Name and Title of Signatory Above: \_\_\_\_\_

*Check YES or NO whether the following statement applies to this company.  
If YES, complete the remainder of this form. If NO, do not answer the remaining questions.*

The company has more than 50 employees AND has or is bidding for a contract or purchase order amounting to \$50,000 or more for the project designated above.

YES \_\_\_\_\_ NO \_\_\_\_\_

*Executive Order 11246 and 41 CFR part 60 require that certain companies involved in federally assisted construction projects develop and keep on file at each of their establishments an Affirmative Action Plan for achieving equal employment opportunity. Progress reports on utilization of minorities are to be completed annually on or before March 31. Previously, the reports were to be submitted to the Equal Employment Opportunity Commission or the administering agency within 30 days after the award of the contract or subcontract unless such a report was previously filed within 12 months preceding the date of the award the requirement now is that these progress reports be kept on file at the company. Bidders and subcontractors who meet the criteria above must also answer the following questions in writing:*

The company has developed and has on file at each establishment affirmative action programs as required by 41 CFR part 60.

YES \_\_\_\_ NO \_\_\_\_

The company has participated in a previous contract or subcontract subject to the equal opportunity clause requirements for affirmative action programs.

YES \_\_\_\_ NO \_\_\_\_

The company has filed all reports as required by 41 CFR part 60.

YES \_\_\_\_ NO \_\_\_\_ NOT APPLICABLE \_\_\_\_

## **MBE-WBE POLICY**

### **POLICY WITH RESPECT TO MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MBEs/WBEs)**

To the maximum extent feasible, opportunities for contracting in connection with this project shall be given to MBEs/WBEs. Upon acceptance of a bid by the Corporation, if any portion of the contract is subcontracted, the Contractor will be expected to solicit MBE/WBE firms to bid on various aspects of the contract. Resources available to assist the Contractor in finding or notifying MBE/WBE firms include, but are not limited to the following.

The County's MBE Program:  
MBE Coordinator, Office of the Purchasing Agent  
2660 Riva Road, Third Floor  
Annapolis, MD 21401  
(410) 222-7667

Various MBE/WBE directories available for Contractors' use from 8:30 a.m. to 5:00 p.m., Monday through Friday, at:

Arundel Community Development Services, Inc.  
2660 Riva Road Suite 210  
Annapolis, MD 21401  
(410) 222-7600

Minority trade associations:  
Maryland Metropolitan Association of Minority Contractors, Inc.  
2213 Brookfield Avenue  
Baltimore, MD 21217  
(410) 523-2700

Minority Supplier Development Council  
9150-B5 Rumsey Road  
Columbia, MD 21045  
(410) 997-7599

National Association of Minority Contractors  
806 15th Street, NW Suite 340  
Washington, DC 20005  
(202) 347-8259

For each MBE/WBE with whom a Contractor enters into a contract, the attached MBE/WBE Identification Statement shall be completed (Section 00215). This form was designed by the Corporation to obtain information, which it must report to the federal government on behalf of Anne Arundel County regarding MBE/WBE participation in certain HUD programs. It is the only MBE/WBE certification required for this project by the Corporation and by HUD, however, some projects, which are partially financed by the State of Maryland.

**MBE/WBE**

**MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE IDENTIFICATION STATEMENT**

If applicable, this form is to be submitted by General Contractor, Consultant, or Service Provider as part of Contract or Agreement, and by Subcontractors before they begin work.

Name of Company/Organization: \_\_\_\_\_

Address of Company/Organization: \_\_\_\_\_

Telephone: \_\_\_\_\_ Tax Identification Number \_\_\_\_\_

Project: \_\_\_\_\_

Indicate if (on this project) you are a

- general contractor
- subcontractor (specify trade or service): \_\_\_\_\_
- general contractor (specify trade or service): \_\_\_\_\_

When was the company/organization established? \_\_\_\_\_

State the name of each owner of the enterprise, the minority group to which he/she belongs (if applicable), his/her percentage of ownership, and his/her type of investment.

Name	Minority Group* (if applicable)	Percent Ownership	Type of Investment (Check all that apply)				
			Financial	Equipment	Management	Labor	None

*\*Female. African American. Hispanic. Native American. Asian/Pacific Islander. Eskimo/Aleut*

The above percentages of ownership have existed since \_\_\_\_\_

Does any owner of your enterprise who is not a minority group member also have an ownership interest in any other firm working on this project?

Yes  No  (If yes, state below the name of each such owner and the names of the firms in which such ownership interests exists.)

Has your enterprise entered into any agreement with any of the firms named in Question #5?

Yes  No  (If yes, describe such agreements below.)

Are any of the minority owners listed in Question #3 or any minority group member officers of your business a former or current employee of any other firm working on the project? -

Yes  No  (If yes, state the name(s) of the individual(s), name(s) of the employer(s), date(s) of employment with the other firm(s), and responsibilities in such employment.)

Has your enterprise subcontracted out to another firm any work to be performed on this project?

Yes  No  (If yes, state the percentage of work subcontracted and the nature of such work)

I certify that the foregoing information is correct and complete.

\_\_\_\_\_  
Signature of Officer or Owner of Company Date

\_\_\_\_\_  
Printed Name and Title of Signatory Above:

## SECTION 3

Section 3 of the Housing and Urban Development Act of 1968 applies to this project. This means that, to the greatest extent feasible, the contractor will attempt to hire low and very low income residents of the Baltimore Metropolitan Area and contract with firms that are owned by or which utilize low and very low income residents of the Baltimore Metropolitan Area. The Contractor and Subcontractors should review and/or submit the following Section 3 documents contained herein:

### THE SECTION 3 CLAUSE

(INCLUSION OF THE FOLLOWING CLAUSE IN THIS CONTRACT IS REQUIRED BY LAW.)

#### §135.38 SECTION 3 CLAUSE.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

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

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

## SECTION 3 TARGETED INCOMES

It is the policy of HCAAC is to ensure that residents of the Baltimore Metropolitan Statistical Area whose family incomes do not exceed 80% of the median family income for that area shall participate, to the greatest extent feasible, in the economic opportunities generated by HUD financial assistance. Economic opportunities include training, employment, contracting or subcontracting, and purchasing. The current income levels vary by geographical area and are updated annually. A "targeted-income" person for Section 3 is a resident of the Baltimore Metropolitan Area whose annual earnings are no more than these amounts, according to family size. A Section 3 business is 51 percent or more owned by targeted income persons, or employs such persons for 30 percent or more of its full-time work force, or utilizes Section 3 businesses for at least 25 percent of the dollar value of all its subcontracts.

Numerical Goals for Employment and Training of Section 3 Persons: 30% of the aggregate number of new hires on the project.

Numerical Goals for Contracts with Section 3 Businesses:

- a. at least 10% of the total dollar amount of all Section 3 covered contracts for **building trades** work; and
- b. at least 3% of the total dollar amount of all **other** Section 3 covered contracts (e.g. construction management, engineering and architectural services, cleaning, moving and storage, or security contracts connected with construction projects).

Proof of eligibility for preference: A Section 3 resident seeking preference shall certify or submit evidence to the recipient, contractor, or subcontractor, *if requested*, as to Section 3 status. A business seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, *if requested*, that it is a Section 3 business.

Qualifications for the job: There is no requirement to hire a Section 3 resident who does not meet the qualifications of the position to be filled. A Section 3 business seeking a contract or subcontract shall submit evidence to the recipient, contractor, or subcontractor, if requested, that it is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

### **SECTION 3 COMPLIANCE: BASIC ACTIONS FOR COMPLIANCE WITH SECTION 3 IN HIRING AND CONTRACTING**

Before beginning work on the project, General Contractor and Subcontractors will certify that the company will comply with Section 3 and will carry out the Basic Actions for Compliance listed herein.

- a. General Contractor and Subcontractors will send to each labor organization or representative of workers with whom there is a collective bargaining agreement or other understanding a notice regarding the Section 3 commitments under this contract.
- b. General Contractor and Subcontractors will cooperate with the Corporation in informing referral agencies and community organizations about hiring and contracting opportunities and will respond to expressions of interest by Section 3 job applicants and Section 3 businesses.
- c. General Contractor will post at the site (a) notice that this is a Section 3 project and (b) information about specific job openings and contracting opportunities and how to apply.
- d. General Contractor will accept job applications at the site and maintain a file of those applications for use by all subcontractors on the project. Subcontractors will consider applicants from this file.
- e. When a specific construction job opening occurs, General Contractor or Subcontractor will contact the following for a referral of a low or very low income Anne Arundel County resident: **Employer Services Representative, Anne Arundel County Workforce Exchange, 80 West Street, Annapolis, MD 21401, (410) 269-4427**
- f. General Contractor and Subcontractors will place asterisks (\*) by names of all new-hires the first time they appear on the Certified Payroll Form.
- g. In cases where 2 or more Section 3 individuals or businesses are competing for the same opportunity and other factors such as qualifications or costs are equal, the General Contractor will consult the Corporation for guidance as to locally established priorities.
- h. After completion of the project, General Contractor and Subcontractors will, as requested by the Corporation, report on subcontracting and hiring activity related to the project.

**SECTION THREE CERTIFICATION****SECTION 3 AGREEMENT AND CERTIFICATION**

(General Contractor submits as part of contract. Subcontractors submit prior to starting work.)

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

Company Address: \_\_\_\_\_

Company Telephone: \_\_\_\_\_ Date: \_\_\_\_\_

Company Tax Identification Number: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Estimated number of new employees' company expects to hire for this project: \_\_\_\_\_

Number of Subcontractors this company expects to utilize for this project: \_\_\_\_\_

***Please check YES or NO by each of the following statements to indicate whether or not it applies to your company. Any YES indicates that your company is a Section 3 business.***

YES      NO

\_\_\_\_\_    \_\_\_\_\_    The company is 51% or more owned by Section 3 persons.

\_\_\_\_\_    \_\_\_\_\_    At least 30% of the permanent full time employees are Section 3 persons or were so within 3 years of the date they were hired by the company.

\_\_\_\_\_    \_\_\_\_\_    For at least 25% of the dollar value of all its subcontracts, the company commits to subcontract with firms that are either 51% or more owned by Section 3 persons or which employ such residents as at least 30% of the permanent full time work force.

**Statement of Agreement to Comply with Section 3 and Certification**

The company named above has read the general information about Section 3 which appears in the contract for the project, will comply with the goals and provisions of Section 3 as they apply to this project, and will carry out the basic actions for compliance as stated in the contract. The company certifies that no hiring done during the period between selection of the contractor and execution of the contract was intended to circumvent obligations under Section 3. The company further certifies to the correctness of the information it has provided above for use in determining whether or not it is a Section 3 business.

\_\_\_\_\_  
Signature of Officer or Owner of Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title of Signatory Above:



## FEDERAL LABOR REQUIREMENTS: OVERVIEW OF IMPORTANT POINTS

Federal Labor Standards apply to this Contract. These labor standards include Davis-Bacon and Related Acts. In brief, this means:

- Wage rates paid to employees of the Contractor and employees of all subcontractors must be no less than those in the Department of Labor "Wage Determination" for this project.
- The minimum wage rate for a trade not on the "Wage Determination" must be established in conjunction with the Corporation and HUD based on Department of Labor regulations.
- Employees must be paid "time and a half for hours which exceed 40 in any one week, as mandated by the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 – 333).
- Salaries of all employees of the Contractor and subcontractors under this Contract shall be paid unconditionally and not less often than once a week without deduction or rebate on any account except only such payroll deductions as are mandatory bylaw or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland Anti-Kickback Act of June 13, 1934 (40 U. S. C. 276c). The Copeland Act makes it a criminal offense to induce any person employed under this Contract to give up any part of the compensation to which he or she is entitled.
- Weekly Certified Payroll Reports must be submitted by the Contractor and all subcontractors, as mandated by the Copeland Act.

A "working subcontractor" who performs trade work at the project site and has employees working at the site must submit weekly certified payroll reports on which he includes the hours he worked on the project. However, he may identify himself on those reports as "owner" and omit the wage rate he pays himself.

A "working subcontractor" who performs trade work at the project site and has no employees working at the site must be included on the General Contractor's weekly certified payroll reports. His trade, wage rate, and hours must be included. The terms "1099" or "subcontractor" may be used to indicate why no deductions are taken. Regardless of the bid amount of the subcontract, this subcontractor must actually be paid weekly and at a wage rate no less than that established by the Wage Determination or accepted additional classification procedures. If the subcontract provides for additional compensation, the amounts owed shall be paid by the General Contractor periodically and/or at the end of the project in response to invoices submitted by the subcontractor.

Contractors must use the "Wage Determination" in effect when the bids are opened for this project. The most recent "Wage Determination" available is included in the bid documents. If this "Wage Determination" is modified by the Department of Labor prior to the opening of bids, the new rates will apply if the modification occurs at a time when it is still feasible for the Corporation to notify potential bidders.

**AUTHORIZATION TO SIGN CERTIFIED PAYROLL FORMS**

**PROJECT: Pinewood East Canopy Replacement, 7900 Benesch Circle, Glen Burnie, MD 21060**

I hereby authorize the following person(s) to sign Certified Payroll Forms for this project

<b>NAME OF PERSON AUTHORIZED TO SIGN CERTIFIED PAYROLL FORMS</b>	<b>TITLE OF PERSON AUTHORIZED TO SIGN CERTIFIED PAYROLL FORMS</b>

---

Signature of Officer or Owner of Company

Date

---

Printed Name and Title of Signatory Above:

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, 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 I(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 particular 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 on 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.

**(ii) (a)** Any class of laborers or mechanics 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 the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** 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, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 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. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** 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 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. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** 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.

**(iv)** 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. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** 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 on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, 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. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. 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 any 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, 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 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** 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:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) 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;

(3) 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.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) 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 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee 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, sponsor, applicant or owner, 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.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, 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 the Office of Apprenticeship Training, Employer and Labor Services 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 above, 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 journeymen 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 determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, 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.

(ii) **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 on 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 on 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 on the wage determination for the 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 on 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.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. 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

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract 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 HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** 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 Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. 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 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 clause set forth in subparagraph (1) of this paragraph, 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 clause set forth in subparagraph (1) of this paragraph, 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 the clause set forth in subparagraph (1) of this paragraph.

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**(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 other Federal contract with the same prime contract, 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 clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and 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 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

## **INSURANCE REQUIREMENTS**

### **Insurance Required of Construction Contractors**

#### **1. General:**

The Contractor and each Subcontractor are responsible for his own insurance. This section explains the types, amounts, and limits of insurance coverage required of contractors doing work at the site of a project owned by the Housing Authority.

- a) All required insurance shall be carried with financially responsible insurance companies and shall be kept in force until the contractor's work is accepted, and taken over by the Housing Authority.
- b) Should any primary contractor, subcontractor, or sub-sub-contractor commence work of any nature at the project site without first having the required approved insurance in force, the Housing Authority shall immediately cause such work to be stopped until the infraction of contract requirements has been cleared. Any delay in contract performance which results from failure to comply with contract requirements shall be the sole responsibility of the primary contractor under whose supervision the infraction occurred.

#### **2. Workmen's Compensation:**

The Housing Authority shall require each contractor and subcontractor to carry Workmen's Compensation Insurance for all employees engaged in operations under the Construction Contract, and provide statutory Workers' Compensation benefits covering all of their employees with respect to whom death or bodily injury claims could be asserted, as required under Maryland Law, and Employer's Liability with limits of at least \$100,000 each accident, \$100,000 each employee disease, and \$500,000 disease policy limit;

#### **3. Comprehensive General Liability:**

The Housing Authority shall require each contractor to carry comprehensive general liability insurance, with bodily injury and property damage limits of not less than \$1,000,000 per occurrence (or such higher amount as the Housing Authority may require based on the trend in injury and/or death claims and damage to the property of others as a result of accidents) which may occur at the project site from operations under the Construction Contract and subcontracts. The insurance shall cover the use of all equipment, hoists, and vehicles on the project site.

#### **4. Builders Risk:**

- a) **Extent of Coverage:** The Housing Authority shall require the contractor to carry Builders Risk (fire and extended coverage) Insurance on all work in place and/or material stored at the building site, including foundation and building equipment. The contractor installing equipment supplied by the Housing Authority, such as ranges and refrigerators, shall carry insurance on the equipment from the time he takes possession thereof until issuance of the final Certificate of Completion. Builders Risk Insurance need not be carried on excavations, piers, footings, or foundations until work on the superstructure is started. Builders Risk Insurance is not required to be carried on landscape work.
- b) **Risks to Be Covered:** The Builders Risk Insurance policy or policies shall provide for fire and extended coverage insurance for the benefit of the contractor, his subcontractors, and the HCAAC as their interests may appear against loss by fire, lightning, windstorm, hail; explosion, riots, riot attending a strike, aircraft, vehicle, and smoke damage. In localities particularly susceptible to earthquake disturbances, additional Builders Risk Insurance against loss by earthquake may be included if desired. Policies shall furnish coverage at all times for the full cash value of all completed construction as well as materials or equipment in place and/or stored at the site, whether or not partial payment has been made by the HCAAC. In some localities, windstorm coverage under the usual form of Builders Risk policies does not attach until the exterior of the Building is finally closed with all windows and doors permanently in place. Such policies should be endorsed to cover buildings in all stages of construction or reconstruction. If specific buildings are accepted and taken over for occupancy by the HCAAC, the contractor may terminate his insurance at such time on such buildings and the HCAAC shall provide fire and extended coverage insurance on such buildings thereafter.
- c) **Cancellation Provision:** The HCAAC require that each Builders Risk policy carried by the contractor provide for at least 30 days' prior notice by the contractor of insurance company before the cancellation becomes effective.

#### **5. Automobile Liability:**

Insurance with minimum limits coverage at \$1,000,000 each occurrence for property damage and \$1,000,000 each occurrence for bodily injury

#### **6. Excess Liability**

Coverage in the form of an umbrella endorsement over all of the above in an amount of not less than \$2,000,000.

#### **7. Evidence of Contractor's and Subcontractor's Insurance Coverage:**

- a) Before any work begins, the contractor and each subcontractor are required to furnish the HCAAC with evidence (which may be in the form of a certificate) that the required Workmen's Compensation and comprehensive general liability insurance are in force. Before work has begun on the superstructure, the contractor is required to furnish similar evidence that the required Builders Risk Insurance is in force. Two copies of each certificate or other evidence are to be submitted. Upon request, one copy of each shall be sent to the HCAAC Project Manager.



- c) Insurance which expires before the contractor's work is accepted and taken over by the HCAAC is to be renewed and evidence thereof submitted to the HCAAC.
- d) If the Builders Risk policy is written on a reporting form, two signed copies of each report to the insurance company showing periodic value increases, shall be sent to the HCAAC by the contractor. Upon request, one copy of each report shall be sent to the HCAAC Project Manager.

**8. Maintenance of Records:**

The HCAAC shall maintain an insurance record of policies carried by each contractor and his subcontractors to make certain the required coverage's are kept in force as required by the contracts. The records shall contain, at minimum, the following information: name and address of insurance company, policy number, type of coverage, amount of insurance, effective date of policy, and the expiration date of the policy. In order that the HCAAC may insure that all required coverage's are kept in force, all insurance companies writing the contractor's policies shall issue a Certificate of Insurance and give the HCAAC 30 days' prior notice of any cancellation or material change in their policy.

**FORM OF BID PROPOSAL**

Project: **Pinewood East Canopy Replacement, 7900 Benesch Circle, Glen Burnie, MD 21060**

From: \_\_\_\_\_  
(Name of Bidder)

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

\_\_\_\_\_  
(Telephone Number - Include Area Code)

\_\_\_\_\_  
(Federal ID Number)

To the: Housing Commission of Anne Arundel County  
7477 Baltimore Annapolis Blvd., Suite 301  
Glen Burnie, Maryland 21061

Gentlemen:  
The undersigned, having familiarized (himself /themselves) with the local conditions affecting the cost of the work, and with the Specification (including Invitation for Bid, Instructions to Bidders, this Bid, the form of Bid Bond, the form of Non-Collusive Affidavit, General Conditions, and the Special Condition, the General Scope of the work, the Technical Specification, and the Drawings) and Addenda as issued by the Housing Commission of Anne Arundel County, 7477 Baltimore Annapolis Blvd, Suite 301, Glen Burnie, Maryland, 21061 hereby proposes to furnish all labor, tools, materials, equipment, technical personnel, supervision, machinery, permits and services, including utility and transportation services necessary to satisfactorily complete all work required for:

**Pinewood East Canopy Replacement, 7900 Benesch Circle, Glen Burnie, MD 21060**

TOTAL BASE BID FOR THE WORK DESCRIBED IN THE PROJECT MANUAL

TOTAL BASE BID SUM OF:

\_\_\_\_\_ DOLLARS  
(In Words)

\$ \_\_\_\_\_  
(In Figures)

**BID PRICE BREAKDOWN:**

For the Housing Commission of Anne Arundel County information purposes only.  
 The sum of all shall equal the total Base Bid.

**Sub-Contractor Breakdown of Cost:**

Division 01 — General Requirement	\$ _____
Division 02 — Site Construction	\$ _____
Division 03 — Concrete	\$ _____
Division 04 — Masonry	\$ _____
Division 05 — Metals	\$ _____
Division 06 — Wood and Plastics	\$ _____
Division 07 — Thermal and Moisture Protection	\$ _____
Division 08 — Doors and Windows	\$ _____
Division 09 — Finishes	\$ _____
Division 10 — Specialties	\$ _____
Division 11 — Equipment	\$ _____
Division 12 — Furnishings	\$ _____
Division 13 — Special Construction	\$ _____
Division 14 — Conveying Systems	\$ _____
Division 15 — Mechanical/Plumbing	\$ _____
Division 16 — Electrical	\$ _____
<b>Sub-Total of Divisions</b>	<b>\$ _____</b>

1. In submitting this bid, it is understood that the right is reserved by the Housing Commission of Anne Arundel County to reject any and/or all bids. If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within 30 days after the opening thereof, or at any time thereafter before the bid is withdrawn, the undersigned agrees to execute and deliver a Contract in the prescribed form and furnish the required Bonds within ten (10) days after the Contract is presented to him for signature.

2. Security in the sum of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_ ) in the form of a Bid Guaranty of five percent (5%) of his bid or in the form of a Certified Check or Bid Bond is submitted herewith in accordance with the Specifications.

3. Attached hereto is an affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this proposal or the submitting of proposals. for the contract for which this proposal is submitted.

4. The bidder represents that he ( ) has ( ) has not participated in a previous contract or subcontract subject to the equal opportunity clause prescribed in Executive Order 10925, 11114, or 11246 of the Secretary of Labor; that he ( ) has ( ) has not filed all required compliance reports, and that representations indicating submissions of the required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with the contractors or subcontractors who are exempt from the clause).

5. Certification of Non-Segregated Facilities: By signing this bid, the bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments and the he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms, and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certification from proposed subcontractors prior to the award of subcontract exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he will retain such certifications in his files, and that he will forward a notice to his proposed subcontractors as provided in the Instructions to Bidders.

6. Liquidated Damages:

- a) As actual damages for any delay in completion are impossible to determine, the Contractor and his Sureties shall be liable for and shall pay to the Housing Commission of Anne Arundel County the sum hereinafter stipulated as fixed and agreed liquidated damages for each day of delay until the work is completed and accepted.
- b) Refer to General Conditions, Paragraph 11 - Delays, Damages.
- c) Total time for project completion is 150 consecutive calendar days from signed Notice to Proceed.

7. Prevailing Salaries or Wages:

The Housing Commission of Anne Arundel County will submit to the Contractor a copy of the latest prevailing wage and salary schedule in accordance with the General Conditions - Para. 27 - Prevailing Wages or Salaries

(Note: The penalty for making false statements in offers is prescribed in 18 U.S./C. 1001).

8. Addenda: The undersigned hereby acknowledges receipt of any numbered and dated Addendas:

Addendum No.	Date	Addendum No.	Date	Addendum No.	Date

\_\_\_\_\_  
Printed Name of Official Company Representative and Date

\_\_\_\_\_  
Signature of Official Company Representative and Date

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

\_\_\_\_\_  
Company Address

**BID BOND**

KNOW ALL MEN BY THESE PRESENT, that we the undersigned, as Principal, and \_\_\_\_\_ (Name of Surety) are held and bound unto the Housing Commission of Anne Arundel County, herein after referred to as the HCAAC, in the penalty sum of \$ \_\_\_\_\_, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated \_\_\_\_\_,

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after the said opening, and shall within ten (10) days after the prescribed forms are presented to him for signature, enter into a written Contract with the HCAAC in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract; or in the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such bond within the time specified, if the Principal shall pay the HCAAC the difference between the amount specified in said Bid and the amount for which the HCAAC May procure the required, work or supplies or both, if the latter be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this day of \_\_\_\_\_, 20\_\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these present duly signed by its undersigned representative, pursuant to authority of its governing body.

EXECUTED IN PRESENCE OF:

\_\_\_\_\_  
ATTEST: Individual Principal \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
ATTEST: Corporate \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Address \_\_\_\_\_

(Power of Attorney for person signing for Surety Company must be attached.)

**CERTIFICATE OF ACKNOWLEDGEMENT OF CORPORATE PRINCIPAL**

**STATE OF:** \_\_\_\_\_

**COUNTY OF:** \_\_\_\_\_

I, \_\_\_\_\_, certify that I am the secretary of the corporation named as principal in the within bond., that \_\_\_\_\_, who signed the said bond on behalf of the principal, was then \_\_\_\_\_ of said corporation, that I know his signature, and his signature thereto is genuine and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
Corporate (Seal)

\_\_\_\_\_  
Title

**CERTIFICATION OF ACKNOWLEDGMENT**

**STATE OF:** \_\_\_\_\_

**COUNTY OF:** \_\_\_\_\_

**BY INDIVIDUAL:**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, a Notary Public within and for the county, personally appeared \_\_\_\_\_ known to be the person described in and whose name is signed to the foregoing writing, has this day, acknowledged same before me in my said county.

Notary Public:

Notary Seal

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

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**BY PARTNERSHIP:**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, a Notary Public within and for the county, personally appeared \_\_\_\_\_ known to be the all of the Partnership, has this day, in my said county, before me, acknowledged the said writing to be the act and deed of the said Partnership.

Notary Public:

Notary Seal

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

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**BY CORPORATION:**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, a Notary Public within and for the county, personally appeared \_\_\_\_\_ a corporation, has this day, in my said county, before me, acknowledged the said writing to be the act and deed of the said corporation.

Notary Public:

Notary Seal

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

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**BID FORM QUALIFICATIONS**

**STATEMENT OF BIDDER'S QUALIFICATION AND EXPERIENCE**

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. Questions may be answered on separate sheets. The bidder may submit any additional information he/she deems necessary.

- 1 Name of Bidder: \_\_\_\_\_
- 2 Permanent Address: \_\_\_\_\_
- 3 Telephone: \_\_\_\_\_
- 4 Bidder's Federal ID #: \_\_\_\_\_
- 5 When Organized? \_\_\_\_\_
- 6 If a Corporation, where incorporated? \_\_\_\_\_
- 7 How many years have you been engaged in construction under your present firm or trade name? \_\_\_\_\_
- 6. Contracts on hand

Name of Owner	Address	Name of Project	Location of Project	Gross Amount of Contract	% Completed & Anticipate completion

- 9. Have you ever failed to complete any work awarded to you? \_\_\_\_\_ If so, where and why?
- 10. Have you ever defaulted on a contract? \_\_\_\_\_ If so, where and when?
- 11. Have you ever refused to sign a contract at your original bid? \_\_\_\_\_
- 12. List your major equipment available for this contract and if owned or leased
- 13. Background and experience of the principal members of your organization
- 14. Credit available
- 15. Include a financial statement
- 16. Experience in construction work similar in scope to this project within the past 5 years.



- 17. Have you ever been a party to or otherwise involved in any action or legal proceedings involving matters related to race, color, nationality, religion or sex?
- 18. Have you ever been accused of discrimination based on race, color, nationality, religion or sex in any action or legal proceedings including any relating to a Federal Agency? If so, give full details on an attached sheet.
- 19. Have you ever been a party or otherwise involved in any action or legal proceedings involving the violation of the Copeland Act., Federal Labor Standards or Davis-Bacon Act? Ifs, give full details on an attached sheet.
- 20. Check One:    Individual             Partnership             Corporation   
                           MBE                        WBE                        % Ownership
- 21. Upon request, furnish any other requests for information that the Housing Commission of Anne Arundel County may require.

Signed: \_\_\_\_\_

Company Representative: \_\_\_\_\_

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

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

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
 Notary Public(Seal)

**CONTRACTOR'S CERTIFICATION OF SUBCONTRACTORS**

List any/all subcontractors to be used in the execution of this contract in the following spaces.

Subcontracted Work	Subcontractor's Name, Address, Principals(s)	Phone #

Note: This information is subject to change only with the approval of the Housing Commission of Anne Arundel County.

**FORM OF NON-COLLUSIVE AFFIDAVIT**

**NON-COLLUSIVE AFFIDAVIT OF PRIME BIDDER**

State of: \_\_\_\_\_

County of: \_\_\_\_\_

Contract No: \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that: he/she is (Owner, Partner, Officer, Representative or Agent) of the party making the foregoing proposal or bid, that such proposal or bid is the genuine and not collusive or; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from 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 bid price of affiance or any other bidder, to fix overhead, profit, or cost element of said bid price, or that of any other bidder or to secure any advantage against the Housing Commission of Anne Arundel County or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

\_\_\_\_\_  
Signature of Bidder, if the bidder is an individual

\_\_\_\_\_  
Partners, if the bidder is a partnership

\_\_\_\_\_  
Signature of Officer, if the bidder is a corporation

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

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public (Seal)

**AA/EEO**

**AFFIRMATIVE ACTION/EQUAL OPPORTUNITY POLICY STATEMENT**

The Contractor will provide Equal Opportunity to all employees and applicants for employment in accordance with all applicable Equal Opportunity Affirmative Action laws, directives and regulations of Federal, State and Local governing bodies.

The Contractor will not discriminate against any employee or applicant for employment because of race, color or creed, sex, religion, ancestry, national origin, sex preference, disability, age (40-70), marital status or status with regard to public assistance.

The Contractor will take Affirmative Action to ensure that all employment practices are free of such discriminations. Such employment practices include, but are not limited to, the following: Hiring, Upgrading, Demotion, Transfer, Recruitment, Termination, Lay-off, Rate of Pay or other forms of Compensation, and Selection for training, including Apprenticeship.

The Contractor will prohibit the harassment of any employee or job applicant because of sex or national origin or race.

The Contractor will commit the necessary time and resources, both financial and human, to achieve the goals of Equal Employment Opportunity and Affirmative Action.

The Contractor will evaluate the performance of its management and supervisory personnel on the basis of their involvement in achieving these Affirmative Action objectives as well as other established criteria. Any employee of this Company or subcontractors to this Company who do not comply with the Equal Employment Opportunity Policies and Procedures set forth in this Statement and plan will be subject to disciplinary action. If any employee or applicant for employment believes he/she has been discriminated against, please contact the EEO Coordinator.

The Contractor will use its best efforts to afford women and minority owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. Goals are as follows: 20% of the value of any construction project which exceeds \$50,000 or 20% of the value of any non-construction contract which exceeds \$50,000 for minority owned businesses; 7% of the value of any construction project which exceeds \$50,000 or 7% of the value of any non-construction contract which exceeds \$50,000 for women owned businesses.

Company Name:

Signature: \_\_\_\_\_

Print Name/Title, Company Representative: \_\_\_\_\_

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

# General Conditions for Construction Contracts - Public Housing Programs

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

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

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

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

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

The information requested does not lend itself to confidentiality.

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

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## 1. Definitions

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

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

#### 4. Other Contracts

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

### Construction Requirements

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

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

#### 6. Construction Progress Schedule

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

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

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

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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



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

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

#### 10. As-Built Drawings

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

#### 11. Material and Workmanship

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

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

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

#### 12. Permits and Codes

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

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

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

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

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

### 14. Temporary Heating

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

### 15. Availability and Use of Utility Services

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

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

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

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

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

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

#### **18. Clean Air and Water**

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

#### **19. Energy Efficiency**

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

#### **20. Inspection and Acceptance of Construction**

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

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

## 21. Use and Possession Prior to Completion

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

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

## 22. Warranty of Title

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

## 23. Warranty of Construction

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

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

**24. Prohibition Against Liens**

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

**Administrative Requirements**

**25. Contract Period**

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

**26. Order of Provisions**

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

**27. Payments**

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

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

- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved submitted not later than \_\_\_\_\_ days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.
- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made: I hereby certify, to the best of my knowledge and belief, that:
  - (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
  - (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
  - (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

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

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

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

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

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

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



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

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

### 37. Subcontracts

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

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

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

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

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

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

### 39. Equal Employment Opportunity

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

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

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

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

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

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#### 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

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

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

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

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

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

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

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

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

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

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

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

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

#### 48. Procurement of Recovered Materials.

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

## WAGE DETERMINATION

### PART 1 – GENERAL

The Contractor and all of his subcontractors are required to pay the minimum rates of pay in accordance with the General Conditions as established by the U. S. Department of Labor and/or HUD. A copy of the applicable minimum rates of pay are required to be posted at the jobsite until project completion.

Only Davis-Bacon Wage Rates/HUD Determined Rates issued by the Department of Housing and Urban Development will be applicable. No State Prevailing Rates are applicable.

## SUMMARY OF WORK

### PART 1 GENERAL

#### 1.1 GENERAL

- a) The General Conditions of the Contract for Construction and Division 1, GENERAL REQUIREMENTS shall be part of this Section.
- b) Single Prime Contract: The Work will be constructed under a single prime contract. The Contractor is responsible for the coordination of work with other contractors and subcontractors as necessary
- c) Examine all drawings and all other Sections of the Specifications for requirements therein affecting the work of this Section.
- d) Existing site conditions and restrictions on use of the site.
- e) Alterations and coordination with existing work.

#### 1.2 GENERAL SCOPE OF WORK

1. The Work under the Contract consists of. The project consists of the following work at

**Project Location: Pinewood East Canopy Replacement, 7900 Benesch Circle, Glen Burnie, MD 21060**

Summary of Work of the Contract can be summarized by references to the Contract, General Conditions, Supplementary Conditions, Specification Sections, Drawings, addenda and modifications to the Contract Documents issued subsequent to the initial printing of this project manual and including but not necessarily limited to printed material referenced by any other means. It is recognized that work of the Contract is also unavoidably affected or influenced by governing regulations, natural phenomenon including weather conditions and other forces outside the Contract Documents.

2. Work includes, but is not limited to the following.

The furnishing of all labor, material, equipment and services necessary for the interior improvements to the office at Pinewood East.

- a. New toilet
- b. Lavatory sink replacement with vanity sink base and sink
- c. New toilet accessories
- d. Kitchen cabinets, countertop and sink complete
- e. Demolition of selected walls
- f. Electrical improvements
- g. Other work described on the drawings and in the specifications

3. Should the Contractor discover any discrepancies or omissions on the Drawings or in the Specifications, he shall notify HCAAC of such error or omission prior to the date of receiving bids; otherwise, it will be understood that the Drawings and Specifications shall be interpreted by the HCAAC thereafter as to their true intent and the Contractor agrees to abide by his decision. The plans and specifications are intended to cover a complete project and it shall be thoroughly understood that failure to mention specifically any work, which would naturally be required to complete the project, shall not relieve the contractor of his responsibility to perform such work.

4. All work shall be done in a satisfactory and workmanlike manner to the entire satisfaction of the HCAAC. Upon completion of all work, the Contractor shall remove all equipment, scaffolding, etc., clean-up all rubbish caused by the work, haul it away from the premises and leave the premises, and surroundings in a clean condition before submitting the project to the HCAAC for acceptance.

5. Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the Contractor shall provide and pay for all materials, labor, tools, equipment, transportation, superintendence, temporary construction of every nature, charges, levies or fees or expenses incurred, and all other services and facilities of every nature whatsoever necessary or the satisfactory performance of the contract.

6. The work includes disposal of removed materials in a manner consistent with local and Federal environmental guidelines.

#### 1.3 TIME OF COMPLETION.

- a) Time of Completion: The work will commence on the date stipulated in the NOTICE TO PROCEED and shall be completed within ONE HUNDRED FIFTY (210) consecutive calendar days from the date stipulated in the Notice To Proceed
- b) In accordance with Article 5 (b) of the General Conditions, the Work shall start as stated in the Notice to Proceed.
- c) Liquidated Damages: The Contractor and its sureties shall be liable for and shall pay to the HCAAC the sum of \$400.00, as fixed, agreed and liquidated damages, for each calendar day of delay from the date stipulated for completion in the "NOTICE TO PROCEED", or as modified in accordance with Section 29, "Changes" under the General Conditions. A calendar day shall be any whole or fractional part of a working day.



- d) All buildings will be occupied during construction. It is the Contractor's responsibility to assure that no apartment entry is left in a clean and workman like manor at the end of each work day.
- e) WORK UNDER SEPARATE CONTRACT
- f) Contractor shall cooperate with separate contractors as necessary to provide access to portions of building involved and to avoid obstruction or interfering with their operations.

#### **1.4 ITEMS FURNISHED BY HOUSING COMMISSION**

To be determined after Contract signing

#### **1.5 CODES, STANDARDS AND PERMITS**

- a) Work under this contract shall conform to all codes, regulations and standards in effect as of the date of receipt of bids that are applicable to this project. All work shall further conform to specific requirements and interpretations of the local authorities having jurisdiction over this project. Determination of applicable codes and standards and authorities having jurisdiction shall be responsibility of contractor, as shall be the analysis of all such codes and standards regarding their applicability to the Project for the purposes of determining necessary construction to conform to such code requirements. Securing all approvals and permits necessary to proceed with construction is the responsibility of Contractor. Where conflicts between or among the requirements of different codes and standards occur, the Contractor shall meet the most restrictive or stringent requirements. In cases where such determination is not possible, such as where code requirements call for different or exclusive treatments, refer questions to the Housing Commission immediately for a determination. Work pursued without such clarification will be at the Contractor's risk and expense, and no claims for extra compensation to correct or change such work will be considered.
- b) Contractor is responsible to obtain an Anne Arundel County permit and to have work inspected. Copies of the inspections must be given to the Representative of Housing Commission of Anne Arundel County prior to partial and or final payment releases. All work shall be performed in accordance with current Anne Arundel County codes.
- c) NOTE: It is Anne Arundel County Policy that Contractors working for HCAAC must procure permits as required by code. However, Anne Arundel County does not charge Contractors for permits on work performed in HCAAC communities
- d) The contractor shall identify all permits required from authorities having jurisdiction over the Project for the construction and occupancy of the work. The Contractor shall prepare the necessary applications and submit required plans and documents to obtain such permits in a timely manner.
- e) The Contractor shall display all permit cards as required by the authorities, and shall deliver photocopies of all permits to the Housing Commission promptly upon their receipt.
- f) The Contractor shall arrange for all inspections and approvals required for all permits, and shall notify the Housing Commission of such inspections a t least three business days in advance of the inspection.
- g) Contractor shall comply with all conditions and provide all notices required by all permits.
- h) Contractor shall perform and/or arrange for and pay for all testing and inspections required by the governing codes and authorities and shall notify the HCAAC of such inspections at least three business days in advance.
- i) Where inspecting authorities require corrective work in conjunction with applicable codes and authorities, Contractor shall promptly comply with such requirements, unless such requirements clearly exceed the requirements of the contract documents. In such cases, the contractor shall proceed with required corrective work so as not to delay the progress of the work, and shall make any claims arising from such requirements as prescribed in the General Conditions of the Contract

#### **1.6 DEMONSTRATED EXPERIENCE:**

Contractor to demonstrate significant experience in the installation of the above described work.

#### **1.7 FUL HOUSING COMMISSION OCCUPANCY:**

HCAAC tenants will occupy the site and existing building during construction. Cooperate with the Housing Commission's tenants to minimize conflicts and facilitate tenant usage. The Contractor shall coordinate with the Housing Commission to minimize disturbance of community residents, and to facilitate Housing Commission's usage. Work must be performed so as not to interfere with the Housing Commission's operation.

#### **1.8 CONTRACTOR USE OF PREMISES**

- a) All work shall be performed during regular working hours, 8:00 A.M., Local Time through 4:30 P.M., Local Time, Monday through Friday only. No work will be performed weekends or holidays without written permission of the Housing Commission.
- b) The Contractor is responsible for maintaining access to all occupied spaces and units during construction operations.
- c) The Contractor should understand that they will have to work closely with management in order to give proper notice when work will be initiated. This will involve written notification of proposed work to the authorized Representative of HCAAC
- d) The Contractor should understand that they are to ensure no apartments are without the use of the kitchen and bathroom and have electrical and water service for any overnight period.

- f) The Contractor is responsible for safety and care of the equipment at all times.
- g) Vehicles Prohibited On Premises Except by Special Permission: No automobile vehicle, truck, tractor, or wheeled and self-propelled vehicles shall be permitted to operate on the premises, except on streets, avenues, or parking lots, without prior written approval of the HCAAC representative. Automotive type vehicles, such as passenger cars and trucks and other mechanized or motorized construction equipment, when parked and unattended, must be locked so as to prevent unauthorized use. Such vehicles or equipment must not be left unattended with the motor running or the ignition key in place.
- h) Limit use of premises to areas indicated. Do not disturb portions of the site beyond the areas indicated.
- i) Allow for Housing Commission occupancy and use by the public.
- j) Keep driveways and entrances clear. Do not use these areas for parking or material storage. Schedule deliveries to minimize on-site storage of materials and equipment. At the end of each working day, the premises shall be cleaned and left in order.
- k) Contractor is responsible to maintain the condition of landscaped items and to replace any items damaged during the course of the work.

### **1.9 PROTECTION:**

- A. The Contractor is responsible for maintaining weather tight conditions during construction. Provision of temporary protection for the work area at end of each day or prior to the onset of inclement weather is required. Temporary enclosure for the unit must be secured as to prevent potential security problems.
- B. Adequate protection and facilities to safeguard the work, adjoining properties and all persons having right of access to the buildings and premises shall be provided and maintained until the work is completed, Special instruction to the Contractor from the Representative of HCAAC shall be immediately complied with in each and every instance to insure protection.
- C. Contractor is responsible to give adequate protection and coverage to resident's furniture, belongings and equipment. This shall involve covering these items with materials that shall protect it from construction debris and the transmission of paint.
- D. Contractor is responsible to give adequate protection from construction debris and paint to HCAAC's property including flooring, cabinets, glass surfaces, equipment and door hardware.
- E. No work is to begin on any opening unless that opening can be protected and secured by 4:30 p.m. that day.

### **1.10 DEMOLITION DEBRIS**

- A. Demolition debris, waste materials and trash may be stored in a dumpster on site for a period not to exceed 5 days. It is advised that local residents of the area may fill dumpsters, which are not locked and closed, with trash. The Housing Commission is not responsible for such accumulations of trash. The Contractor is responsible for the removal of any trash, regardless of source, that accumulates in his dumpster. Contractor may not use HCAAC dumpsters for removal of trash. At completion of the Contract work, the project shall be left clean and free of all debris.
- B. Contractor shall notify HCAAC in writing of a request for creating staging area. The approved area shall be the only location for such activities. Contractor is responsible for the security of all materials, equipment, etc. stored on site for any period during the course of the contract.
- C. Objectionable Employee: The HCAAC reserves the right to request and expects the Contractor to dismiss from the work any employee whom the HCAAC may deem incompetent, careless, insubordinate, or otherwise objectionable

## **PART 2 SCHEDULING & PHASING**

### **2.1 GENERAL PROVISIONS**

- A. The General Conditions of the Contract for Construction and Division 1, GENERAL REQUIREMENTS shall be part of this Section.
- B. Examine all drawings and all other Sections of the Specifications for requirements therein affecting the work of this Section.
- C. Coordinate work with that of all other trades affecting, or affected by, work of this Section.
- D. Cooperate with such trades to assure the steady progress of all work under the Contract.

### **2.2 WORK TO BE PERFORMED**

Furnish and install all Work as indicated on Drawings as per the schedules and sequences specified herein. Build work of other trades into Work of this Section as required.

### **2.3 SUMMARY**

This Section specifies the administrative and procedural requirements for scheduling and phasing the work.

### **2.4 PHASING OF THE WORK**

- A. Work shall be conducted in such a manner as to minimize disruption of previous and subsequent work. Current ongoing work will not be permitted to interrupt service or access to previous or subsequent blocks of work.
- B. Work may be scheduled for as many as 8 dwelling units at any given time, provided that supervision can be assured.

## 2.5 SCHEDULING OF THE WORK

Work shall take place at **Pinewood East, 7900 Benesch Circle, Glen Burnie, MD 21060**

- A. Work hours shall be 8:00 A.M. local time through 4:30 P.M. local time, Monday through Friday only. No work will be performed weekends or holidays without written permission of the Housing Commission.
- B. Work will take place generally on a maximum of 4 dwelling units at a time. Exceptions will be made when designated buildings are not on adjacent and progress of the work requires units on non-adjacent buildings to be under simultaneous construction in order to meet the approved construction schedule as described in Section 01300, Submittals.

## 2.6 REVISIONS TO PHASING AND SCHEDULING REQUIREMENTS

- A. Requests for alteration to these requirements will be considered and permission to adapt phasing and scheduling requirements will not be unreasonably withheld. Any request to alter these scheduling requirements must be accompanied by a detailed plan demonstrating the following:
  1. that the contractor has sufficient forces to implement an accelerated schedule;
  2. that the contractor has sufficient supervisory personnel to oversee and coordinate the work;
  3. that the work can be adequately controlled and that quality can be assured;
  4. and that sufficient materials, equipment and supplies can be provided to enable the accelerated schedule to be implemented.
- B. In the event that permission is granted to accelerate the schedule by working on more units than described herein, such permission is provisional and subject to the Contractor adequately demonstrating its ability to achieve its proposed production rates without compromising quality or control over operations.

## 2.7 MANAGEMENT OF EQUIPMENT AND MATERIALS

- A. As described elsewhere in these specifications, constraints on available space within the site precludes designation in advance of on-site storage areas. As a result, the contractor is directed to assume that only such materials, equipment and supplies as can be incorporated into the work within a given workday may be brought to the site. No on-site storage locations can be relied upon.
- B. Wherever possible, and at the sole discretion of the Housing Commission, limited site space may be designated for the contractor's use, subject to proper maintenance, clean-up and security provisions.
- C. Contractor shall notify the Housing Commission in writing of a request for creating a staging/storage area. The approved area shall be the only location for such activities. The Contractor is responsible for the security of all materials, equipment, etc. Stored during the course of construction on the site for any period.

## 2.8 ADDITIONAL REQUIREMENTS

Holidays observed on this project on which no work may be scheduled are listed as follows.

1. New Year's Day
2. Martin Luther King's Birthday
3. President's Day
4. Good Friday
5. Memorial Day
6. Independence Day
7. Labor Day
8. Columbus Day
9. Veterans Day
10. Thanksgiving Day
11. Thanksgiving Holiday
12. Christmas Day
13. Christmas Holiday

## PART 3 APPLICATIONS FOR PAYMENT

### 3.1 GENERAL:

- A. Coordinate the Schedule of Values and Applications for Payment with the Contractor's Construction Schedule, Submittal Schedule, and List of Subcontracts.
- B. Schedule of Values: Coordinate preparation of the Schedule of Values with preparation of the Contractor's Construction Schedule.
  1. Correlate line items in the Schedule of Values with other required administrative schedules and forms, including:
    - a. Contractor's Construction Schedule.
    - b. Application for Payment forms, including Continuation Sheets.
    - c. List of subcontractors.
    - d. List of products.
    - e. List of principal suppliers and fabricators.
    - f. Schedule of submittals.
  2. Submit the Schedule of Values at the earliest possible date but no later than 14 days before the date scheduled for submittal of the initial Applications for Payment.

- C. Format and Content: Use HUD 51000 Schedule of Values as a guide to establish the format for the Schedule of Values. Provide at least one-line item for each Specification Section.
1. Include the following Project identification:
    - Project name and location.
    - Name of Housing Commission.
    - Project number.
    - Contractor's name and address.
    - Date of submittal.
  2. Provide a breakdown of the Contract Sum in sufficient detail to facilitate evaluation of Applications for Payment. Break down the schedule by project. Break subcontract amounts down into several line items. Round amounts to nearest whole dollar; the total shall equal the Contract Sum.
  3. Provide a separate line item for each part of the Work where Applications for Payment may include materials or equipment, purchased or fabricated and stored, but not yet installed.
  4. If payment for stored materials will be requested. Provide separate line items for initial cost of the materials, for each subsequent stage of completion, and for total installed value.
- D. Applications for Payment shall be consistent with previous applications and payments as certified by the Housing Commission and paid for by the Housing Commission.
- E. Payment-Application Times: Payment dates are indicated in the Agreement. The period covered by each application is the period indicated in the Agreement.
- F. Payment-Application Forms: Use provided HUD documents as the form for Applications for Payment.
- G. Application Preparation: Complete every entry, including notarization and execution by a person authorized to sign on behalf of the Contractor. The HCAA will return incomplete applications without action.
1. Entries shall match data on the Schedule of Values and the Contractor's Construction Schedule. Use updated schedules if revisions were made.
- H. Transmittal: Submit 3 executed original copies of each Application for Payment to the Housing Commission. One copy shall be complete, including waivers of lien and similar attachments.
1. Transmit each copy with a transmittal listing attachments and recording appropriate information related to the application.
- I. Waivers of Mechanics Lien: With each Application for Payment, submit waivers of lien from every entity who may file a lien arising out of the Contract and related to the Work covered by the payment.
1. Submit partial waivers on each item for the amount requested, prior to deduction for retainage, on each item.
  2. When an application shows completion of an item, submit final or full waivers.
  3. Submit each Application for Payment with Contractor's waiver of lien for the period of construction covered by the application.
  4. Submit final Applications for Payment with final waivers from every entity involved with performance of the Work covered by the application who may file a lien.
  5. Waiver Forms: Submit waivers of lien on forms, and executed in a manner, acceptable to the Housing Commission.
- J. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of the first Application for Payment include the following:
1. List of subcontractors.
  2. List of principal suppliers and fabricators.
  3. Schedule of Values.
  4. Contractor's Construction Schedule (preliminary if not final).
  5. Submittal Schedule (preliminary if not final).
  6. List of Contractor's staff assignments.
  7. Copies of building permits.
  8. Copies of licenses from governing authorities.
  9. Certificates of insurance and insurance policies.
  10. Payroll documents.
  11. Performance and payment bonds.
- K. Application for Payment at Substantial Completion: Following issuance of the Certificate of Substantial Completion, submit an Application for Payment. This application shall reflect Certificates of Partial Substantial Completion issued previously for Housing Commission occupancy of designated portions of the Work.
1. Administrative actions and submittals that shall precede or coincide with this application include the following:
  2. Warranties and maintenance agreements.
  3. Test/adjust/balance records.
  4. Maintenance instructions.
  5. Payroll documents.
  6. Final cleaning.
  7. Application for reduction of retainage and consent of surety.

- L. Final Payment Application: Administrative actions and submittals that must precede or coincide with submittal of the final Application for Payment include the following:
1. Completion of Project closeout requirements.
  2. Completion of items specified for completion after Substantial Completion.
  3. Transmittal of Project construction records to the Housing Commission.
  4. Proof that taxes, fees, and similar obligations were paid.
  5. Removal of temporary facilities and services.
  6. Final payroll documents.

## **PART 4 EXISTING CONDITIONS**

### **4.1 GENERAL PROVISIONS**

- A. The General Conditions of the Contract for Construction and Division 1, GENERAL REQUIREMENTS shall be part of this Section.
- B. Examine all drawings and all other Sections of the Specifications for requirements therein affecting the work of this Section.

### **4.2 DEVELOPMENTS AND UNITS**

- A. Developments consist of occupied units in two buildings on an active site with residents, employees and other contractors, service and delivery personnel present. No use may be made of building spaces, common spaces, access roadways and walkways, parking lots or any other areas under control of the Owner without express consent.
- B. Units will typically be occupied and the well-being and safety of the residents are of primary concern to the Housing Commission. The contractor shall make all necessary provisions to protect the possessions and persons of the residents at all times and shall be responsive to all reasonable requests by the Housing Commission to make accommodations in its operations to insure protection.

## **PART 5- CONDUCT OF WORK**

### **5.1 WORKER CONDUCT**

- A. Privacy: The Contractor shall be responsible to maintain the privacy of all residents at the site and shall exercise control and discipline over its workers and those of subcontractors to insure compliance with this requirement.
- B. Language: Prohibit the use of foul language, yelling, swearing and other verbal nuisance by workers anywhere on the project site.
- C. Smoking: Prohibit workers from smoking while performing work inside any Housing Commission buildings, including basement areas. Smoking is permitted only in exterior areas where designated by the Housing Commission.
- D. Radios: Radios are not permitted within occupied units, and the volume of radios in any other areas must be controlled to avoid disturbing residents and employees. Excessive volume is defined as radios that can be heard within adjacent public or private spaces.
- E. Illegal activity: Any illegal activity conducted on the project shall be grounds for permanent removal of any workers involved.
- F. Sexual Harassment: Prohibit sexual harassment of residents, visitors, staff, Housing Commission's representative and Contractor work forces, as defined by Maryland Law.
- G. The Contractor shall remove from the project workers who consistently violate provisions of this Article

## **PART 6- SUBMITTALS**

### **6.1 GENERAL PROVISIONS**

The General Conditions of the Contract for Construction and Division 1, GENERAL REQUIREMENTS shall be part of this Section. Examine all drawings and all other Sections of the Specifications for requirements therein affecting the work of this Section.

### **6.2 RELATED DOCUMENTS:**

- A. This Section supplements Subparagraphs 3c.3 and 9d-9h and Paragraphs 10 and 11 of the General Conditions.
- B. Consult the individual sections of the specifications for the specific submittals required under those sections and for further details and descriptions of the requirements.

### **6.3 GENERAL PROCEDURES FOR SUBMITTALS**

- A. Timeliness - The Contractor shall transmit each submittal to the Housing Commission sufficiently in advance of performing related Work or other applicable activities so that the installation is not delayed by processing times, including disapproval and re-submittal (if required), coordination with other submittals, testing, purchasing, fabrication, delivery, and similar sequenced activities. No extension of time will be authorized because of the Contractor's failure to transmit submittals to the Housing Commission in advance of the Work.
- B. Sequence - The Contractor shall transmit each submittal in a sequence which will not result in the Housing

Commission's approval having to be later modified or rescinded by reason of subsequent submittals which should have been processed earlier or concurrently for coordination.

C. Contractor's Review and Approval - Only submittals received from and bearing the stamp of approval of the Contractor will be considered for review by the Housing Commission. Submittals shall be accompanied by a transmittal notice-stating name of Project, date of submittal, "To", "From" (Contractor, Subcontractor, Installer, Manufacturer, Supplier), Specification Section, or Drawing Number which the submittal refers, purpose (first submittal, resubmittal), description, remarks, distribution record, and signature of transmitter. On the transmittal sheet, or on another separate sheet attached to the transmittal, the Contractor shall direct attention to any deviations including minor limitations and variations from the requirements of the Contract Documents. Deviations shall be highlighted on the submittals.

D. Housing Commission's Action - The Housing Commission will review the Contractor's submittals and return them with one of the following actions recorded thereon by appropriate markings:

1. Final Unrestricted Release: Where marked "Approved" the Work covered by the submittal may proceed provided it complies with the requirements of the Contract Documents.

2. Final-But-Restricted Release: When marked "Approved as Noted" the Work may proceed provided it complies with the Housing Commission's notations or corrections on the submittal and complies with the requirements of the Contract Documents. Acceptance of the Work will depend on these compliances.

3. Returned for Resubmittal: When marked "Revise and Resubmit" or "Disapproved" the Work covered by the submittal (such as purchasing, fabrication, delivery, or other activity) should not proceed. The submittal should be revised or a new submittal resubmitted without delay, in accordance with the Housing Commissions notations stating the reasons for returning the submittal.

C. Processing - All costs for printing, preparing, packaging, submitting, resubmitting, and mailing, or delivering submittals required by this contract shall be included in the Contract Sum.

#### **6.4 "OR EQUALS"**

A. Definition - Whenever a specification section names one or more brands for a given item, and the Contractor wishes to submit, for consideration, another brand, the submission shall be considered an "or-equal" or a "material substitution". For the purposes of this Contract, the terms "or-equal" and "material substitution" shall be considered synonymous.

B. In no case may an item be furnished on the Work other than the item named or described, unless the Housing Commission's written concurrence, shall consider the item equal to the item so named or described.

C. The equality of items offered as "equal" to items named or described shall be proved to the satisfaction of the Housing Commission at the expense of the Contractor submitting the substitution.

D. The Housing Commission may require that full size samples of both the specified and proposed products be submitted for review and evaluation. The Contractor shall bear full cost for providing, delivering, and disposal of all such samples.

E. The Contractor shall assume full responsibility for the performance of any item submitted as an "Or-Equal" and assume the costs of any changes in any Work, which may be caused by such substitution.

F. Or Equal Approval Process - on the transmittal or on a separate sheet attached to the submission, the Contractor shall direct attention to any deviations, including minor limitations and variations, from the Contract Documents.

1. The Contractor shall submit to the Housing Commission for consideration of any or-equal substitution a written point-by-point comparison containing the name and full particulars of the proposed product and the product named or described in the Contract Documents.

2. Such submittal shall in no event be made later than 30 calendar days prior to the incorporation of the item into the Work. In any case in which the time period specified in the Contract Documents from the Notice to Proceed to Substantial Completion is less than 120 days, this requirement can be waived by the Housing Commission.

3. Upon receipt of a written request for approval of an equal substitution, the Housing Commission shall investigate whether the proposed item shall be considered equal to the item named or described in the Contract Documents. Upon conclusion of the investigation, the Housing Commission shall promptly advise the Contractor that the item is, or is not, considered acceptable as on Or-Equal substitution.

#### **6.5 ADMINISTRATIVE SUBMITTALS.**

A. Prior to the start of work at any site, the Contractor shall submit to the Housing Commission a Project Progress Schedule in the form of a shop drawing as indicated in Article 6 of the general Conditions.

B. Within 5 days of issue of the Notice to Proceed, the Contractor shall submit, and shall thereafter maintain in current condition, a detailed Project Directory of all firms and their principal representatives engaged in the project. The Directory shall be distributed at least monthly to the representatives of the Housing Commission. The following shall be included in the Project Directory:

1. Housing Commission, including Housing Commission's project manager

2. Contractor, including all personnel actively engaged in the work and all emergency telephone numbers.

3. Testing laboratories and agencies if applicable

4. Project Representative

5. All subcontractors

6. Local Police Department

7. Local Fire Department

8. Local Hospital

9. Local Ambulance Service.

The Project Directory shall be posted in a conspicuous location at active sites and shall be kept current.

C. Within 5 days of issue of the Notice to Proceed, the Contractor shall submit to the Housing Commission a complete Schedule of Submittals for review and approval as described herein. His schedule shall indicate by trade the date by which each such item is to be submitted and the date by which final approval of each item must be obtained and shall be received as required by conditions and progress of the work subject to Housing Commission's approval. In each case, reasonable time must be permitted for Housing Commission's review, and for re-submittals. Allow a minimum of two weeks for the review period for each submittal. In no case shall submittals be made later than the time indicated on the Schedule of Submittals.

## **6.6 CONTRACTOR'S CONSTRUCTION SCHEDULE**

A. Comprehensive Bar-Chart Schedule: Prepare a fully developed, horizontal bar-chart type Contractor's construction schedule. Within 5 days of issue of Notice to Proceed, submit a "Day One" schedule indicating the milestones discussed below. Within 5 days of securing the permit for construction, provide a fully developed, date specific schedule. Revise this schedule on a regular basis throughout the project, at least monthly, and more often if required by circumstances and progress of the project. Housing Commission reserve the right to request updates to be submitted within one week of the request whenever it is deemed warranted.

1. Provide a "per unit" schedule for every significantly different unit type in each development, indicating each separate work activity, sequence and duration of activities, and overall time line for work within units. Show a separate time bar for each significant construction activity. Provide a continuous vertical line to identify the first working day of the week.

2. Provide a "per development" schedule indicating the preferred sequence of unit access, the duration of work within each building of the development where applicable, the overall duration of work at a development.

3. Provide continuous vertical lines dividing calendar weeks and months.

4. In all cases, indicate dates of advance notice for access as described elsewhere in this specification, dates for Housing Commission inspection, punch list inspection, punch list work, back-punch inspection and final acceptance. Indicate holidays and periods of no work.

5. Within each time bar on the project schedule, indicate estimated completion percentage in 10 percent increments. As Work progresses, place a contrasting mark in each bar to indicate Actual Completion.

6. Prepare the Schedule on sheets of sufficient width to show data for comprehensible segments of the construction period. If requested by Housing Commission, provide a large format, single sheet schedule showing the entire duration of the project.

7. Coordinate the contractor's construction schedule with the Schedule of Values, list of subcontracts, submittal schedule, payment requests and other schedules.

B. Distribution: Following response to the initial submittal, print and distribute copies to the Housing Commission, Subcontractors, and other parties required to comply with schedule dates. Post copies in the Project meeting room and temporary field office.

C. In the event that the construction period includes Thanksgiving, Christmas and/or New Year's Day, the following "no work" periods shall apply. No work may be conducted in units from the Wednesday before Thanksgiving until the Monday following the holiday. Likewise, no work may be performed in units from December 23, the day before Christmas Eve, through January 1, New Year's Day. The intent of this provision is that kitchen facilities in occupied units shall not be disrupted during these holiday periods. Consequently, no new work in occupied apartments may be started that cannot be completed before these no-work periods commence.

## **6.7 GUARANTEES AND WARRANTIES**

A. Secure guarantees-warranties from subcontractors for their part of the work. All work shall be guaranteed-warranted for a one-year period unless specified to be for a longer period elsewhere in these documents. The start of the guarantee-warranty period shall be the date of Substantial Completion as defined elsewhere, unless otherwise agreed by the Housing Commission. All guarantee-warranties must include contact information for each item including contact names, companies, telephone and fax numbers and e-mail addresses.

B. The fact that an equipment manufacturer's warranty is for less than one year, or starts with installation of the product, shall not relieve the Contractor of his responsibility to guarantee the work for one year from Substantial Completion. If a manufacturer's warranty exceeds this one-year period, the Contractor shall turn over such warranty to the Owner at Substantial Completion.

## **PART 7 – TEMPORARY FACILITIES**

### **7.1 GENERAL PROVISIONS**

A. The General Conditions of the Contract for Construction and Division 1, GENERAL REQUIREMENTS shall be part of this Section.

B. Examine all drawings and all other Sections of the Specifications for requirements therein affecting the work of this Section

### **7.2 GENERAL REQUIREMENTS**

A. The Contractor shall be responsible for providing and maintaining all temporary facilities until Substantial Completion. Removal of such prior to Substantial Completion must be with the concurrence of the Housing Commission. The Contractor bears full responsibility for providing any facility removed prior to Substantial Completion

B. Removal of all temporary facilities shall be a condition precedent to Substantial Completion unless directed otherwise by the Architect or specifically noted in the specifications.

### **7.3 TEMPORARY TOILETS**

- A. No toilet facilities in occupied units may be used by any contractor personnel. The Contractor may use the Housing Commission's designated public facilities at Pinewood Village and Pinewood East, subject to the following.
- B. The toilets shall be maintained at all times by the Contractor in a clean and orderly condition in compliance with all local and state health requirements and to the satisfaction of the development manager.
- C. The toilet rooms shall be used solely for their intended use by the Contractor's personnel and shall not be used for storage of materials, cleaning of equipment or containers or disposal of liquid or solid waste from construction activities.
- D. Following the completion of work activities, toilet facilities used by Contractor's personnel shall be professionally cleaned and any finishes damaged in the course of the Contractor's use shall be repaired to their original condition.

### **7.4 TEMPORARY CONSTRUCTION FENCE**

No fencing shall be required unless the Contractor is granted permission to place storage containers at the site. In such cases, the Contractor shall be responsible for providing and maintaining temporary fencing or barricades as may be necessary to assure the safety of all persons authorized or unauthorized, and the security of the stored materials. Such protective measures shall be located and constructed as required by local, state, and federal ordinances, laws, codes, or regulations.

### **7.5 TEMPORARY STRUCTURES AND MATERIAL HANDLING**

- A. In the event that the Contractor is granted permission to site storage and/or waste containers, the Contractor shall provide appropriate equipment as required for the performance of the Contract and the intended use. At the Contractor's discretion, portions of such storage space may be dedicated for the use of subcontractors.
- B. Equipment and materials shall be handled, stored, installed, cleaned, and protected in accordance with the best practice in the industry and, except where otherwise specified in the Contract Documents, in accordance with manufacturer's specifications and directions.
- C. The Contractor must obtain the permission of the Owner for the use of any storage facilities available on site, but the Owner assumes no responsibility for articles stored. Access by the Owner to such Contractor storage areas is not necessary unless valves, equipment, Owner storage or the like are located within. In such cases, the Contractor shall provide such access to the Owner's authorized personnel as the Owner, in its sole discretion, deems necessary.

### **7.6 TEMPORARY STAGING, STAIRS, CHUTES**

- A. Except as otherwise specified, the Contractor shall furnish, install, maintain in safe condition, and remove all scaffolds, staging, and planking over 8 feet in height, as required for the use of all trades for proper execution of the Work.
- B. The Contractor shall furnish, install, maintain in safe condition, and remove all temporary ramps, stairs, ladders, and similar items as required for the use of all trades for the proper execution of the Work.
- C. In general, debris shall be hand carried out of units to trucks or disposal units. The Contractor shall cause debris, trash, packing materials and the like to be wrapped in plastic or bagged whenever there is risk of spills, scattering or dispersal of parts or pieces of the waste material. Routes from the point of demolition to the disposal point shall be kept clean at all times, broom clean outside of buildings and thoroughly clean inside units and public areas.
- D. In the event that site logistics permit, disposal units or trucks may be positioned close to active work areas within the buildings. In such cases, the Contractor shall furnish, install, maintain, and remove covered chutes from openings in the exterior walls of upper floors. Such shall be in convenient locations and permit disposal of rubbish directly into trucks or disposal units.
- E. Debris shall not be allowed to fall freely from upper levels of the building. Materials shall not be dropped from open windows.
- F. All temporary work shall be provided in conformity with the National Electric Code, State and Local laws, and requirements of the power company.
- G. The licensed electrician employed by the Contractor for the installation of this service and equipment shall dismantle and completely remove from the project site, temporary electrical facilities only when the permanent electrical system is operational and accepted by the Housing Commission.
- H. After the installation of the Work by any Subcontractor is completed, the Contractor shall be responsible for its protection and for repairing, replacing, or cleaning any such Work which has been damaged by other trades or by any other cause, so that all Work is in first class condition at the time of Substantial Completion.

## **PART 8 - CLEAN UP**

### **8.1 GENERAL PROVISIONS**

- A. The General Conditions of the Contract for Construction and Division 1, GENERAL REQUIREMENTS shall be part of this Section.
- B. Examine all drawings and all other Sections of the Specifications for requirements therein affecting the work of this Section. Particular attention is directed to other Sections of Division 1 regarding the conduct of the work and Contractor's responsibilities within occupied units and developments.



## 8.2 RELATED DOCUMENTS

- A. This section supplements Paragraph 2f of the General Conditions.
- B. Consult the individual sections of the specifications for cleaning of Work installed under those sections.

## 8.3 CLEANING DURING CONSTRUCTION

- A. Conduct cleaning and disposal operations to comply with local ordinances and antipollution laws.
  - 1. Do not burn or bury rubbish and waste materials on the site.
  - 2. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
  - 3. Do not dispose of volatile wastes such as mineral spirits, oil, paint thinner or clean equipment and tools in kitchen sink or bathroom fixtures.
  - 4. Do not dispose of wastes into streams or waterways.
- B. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- C. Do not allow materials and rubbish to drop free or be thrown from upper floors, but remove by use of a material hoist, rubbish chutes, or by hand carrying.
- D. Maintain the Site free from accumulations of waste, debris, and rubbish.
- E. Provide on-site containers for collection of waste materials and rubbish. Supply and place containers only where and as allowed by development managers. Where space for containers is not available, provide trucks adequate to the scale of disposal on a daily basis and remove rubbish and waste from the site at the end of each work day.
- F. At the end of each day, remove and legally dispose waste materials and rubbish from site.
- G. Leave the Project clean and ready for occupancy at the end of each workday, including interior and exterior public areas at occupied buildings that are affected by the Work.
- H. In occupied Units, clean Unit interior of all dust and debris every day. Clean kitchen so that it can be used to the maximum degree feasible every day, including, at a minimum, clean working sink and stove, and clean floor, walls and other surfaces. Clean bathroom so that it can be used to the maximum degree feasible every day, including, at a minimum, clean working sink and toilet, and clean floor, walls and other surfaces.
- I. Vacuum clean interior building areas when ready to receive finish painting, and at the end of each workday.
- J. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.
- K. Disposal of materials shall be in compliance with all applicable laws, ordinances, codes, and by-laws.

## 8.4. FINAL CLEANING

- A. Prior to submitting a request to the Housing Commission to certify Substantial Completion of the Work, the Contractor shall inspect all interior and exterior spaces and verify that all waste materials, rubbish, tools, equipment, machinery, and surplus materials have been removed, and that all sight-exposed surfaces are clean.
- B. Unless otherwise specified under other sections of the Specifications, the Contractor shall perform final cleaning operations as herein specified prior to final inspection.
- C. Cleaning shall include all surfaces, interior and exterior, which the Contractor has had access to, whether new or existing.
- D. Employ experienced workmen or professional cleaners for final cleaning.
- E. Use only cleaning materials recommended by the manufacturer of the surface to be cleaned.
- F. Use cleaning materials which will not create a hazard to health or property and which will not damage surfaces.
- G. All broken or defective glass caused by the Contractor's Work shall be replaced at the expense of the Contractor.
- H. Remove grease, mastic, adhesive, dust, dirt, stains, labels, fingerprints, and other foreign materials from sight-exposed interior and exterior surfaces. This includes cleaning of the Work of all finishing trades where needed, whether or not cleaning by such trades is included in their respective specifications.
- I. Clean and polish all new and existing glass and plastic glazing (if any) throughout the building(s), on both sides. Clean plastic glazing in accordance with the manufacturer's directions. This cleaning shall be completed by qualified window cleaners at the expense of the Contractor just prior to acceptance of the Work.
- J. Wash and polish all mirrors.
- K. Repair, patch, and touch up marred surfaces to the specified finish, to match adjacent surfaces.
- L. Polish glossy surfaces to a clear shine.
- M. Do the final cleaning of resilient floors and soft flooring as specified under the respective sections of the Specifications.
- N. Leave all architectural metals, hardware, and fixtures in undamaged, polished conditions.
- O. Leave pipe and duct spaces, plenums, furred spaces and the like clean of debris and decayable materials.
- P. In cleaning items with manufacturer's finish or items previously finished by a Subcontractor, care shall be taken not to damage such manufacturer's or Subcontractor's finish. In cleaning glass and finish surfaces, care shall be taken not to use detergents or other cleaning agents that may stain adjoining finish surfaces. Any damage to finishes caused by cleaning operations shall be repaired at the Contractor's expense.
- Q. Ventilating systems - Replace filters and clean ducts, blowers, and coils if units were operated during construction.
- R. Owner's responsibility for cleaning commences at Substantial Completion.

## **PART 9 - WARRANTIES**

### **9.1 General:**

- A. Standard products warranties are preprinted written warranties published by individual manufacturers for particular products and are specifically endorsed by the manufacturer to the Owner.
- B. Special warranties are written warranties required by or incorporated in the Contract Documents, either to extend time limits provided by standard warranties or to provide greater rights for the Owner.
1. Refer to the General Conditions for terms of the Contractor's period for correction of the Work.
- C. Disclaimers and Limitations: Manufacturer's disclaimers and limitations on product warranties do not relieve the Contractor of the warranty on the Work that incorporates the products. Manufacturer's disclaimers and limitations on product warranties do not relieve suppliers, manufacturers, and subcontractors required to countersign special warranties with the Contractor.
- D. Related Damages and Losses: When correcting failed or damaged warranted construction, remove and replace construction that has been damaged as a result of such failure or must be removed and replaced to provide access for correction of warranted construction.
- E. Reinstatement of Warranty: When Work covered by a warranty has failed and been corrected by replacement or rebuilding, reinstate the warranty by written endorsement. The reinstated warranty shall be equal to the original warranty with an equitable adjustment for depreciation.
- F. Replacement Cost: Upon determination that Work covered by a warranty has failed, replace or rebuild the Work to an acceptable condition complying with requirements of the Contract Documents. The Contractor is responsible for the cost of replacing or rebuilding defective Work regardless of whether the Owner has benefited from use of the Work through a portion of its anticipated useful service life.
- G. Owner's Recourse: Expressed warranties made to the Owner are in addition to implied warranties and shall not limit the duties, obligations, rights, and remedies otherwise available under the law. Expressed warranty periods shall not be interpreted as limitations on the time in which the Owner can enforce such other duties, obligations, rights, or remedies.
1. Rejection of Warranties: The Owner reserves the right to reject warranties and to limit selection to products with warranties not in conflict with requirements of the Contract Documents.
2. Where the Contract Documents require a special warranty, or similar commitment, the Owner reserves the right to refuse to accept the Work, until the Contractor presents evidence that entities required to countersign such commitments are willing to do so.
- H. Submit written warranties to the HCAAC prior to the date certified for Substantial Completion. If the HCAAC's Certificate of Substantial Completion designates a commencement date for warranties other than the date of Substantial Completion, submit written warranties upon request of the HCAAC.
1. When a designated portion of the Work is completed and occupied or used by the Owner, by separate agreement with the Contractor during the construction period, submit properly executed warranties to the HCAAC within 15 days of completion of that designated portion of the Work.
- I. When the Contract Documents require the Contractor, or the Contractor and a subcontractor, supplier or manufacturer to execute a special warranty, prepare a written document that contains appropriate terms and identification, ready for execution by the required parties. Submit a draft to the Owner, through the HCAAC, for approval prior to final execution.

## **PART 10 - CONTRACT CLOSEOUT**

### **10.1 GENERAL**

- A. Closeout requirements for specific construction activities are included in the appropriate Sections in Divisions 2 through 16.
- B. Unit Acceptance: The Owner will accept units as being substantially complete upon inspection and certification by the Housing Commission. The Housing Commission will inspect completed units on a weekly basis upon receipt of written 3 days' notice by the Contractor. Until the unit is inspected and accepted as being substantially complete, the Contractor will be responsible for damages or loss of the completed work, other than obvious tenant abuse, as determined solely by the Owner.
- C. Substantial Completion of all work at the development: Before requesting inspection for certification of Substantial Completion, complete the following:
1. In the Application for Payment that coincides with, or first follows, the date Substantial Completion is claimed, show 100 percent completion for the Work claimed as substantially complete.
- a. Include supporting documentation for completion and an accounting of changes to the Contract Sum.
2. Advise the Owner of pending insurance changeover requirements.
3. Submit specific warranties, workmanship bonds, maintenance agreements, final certifications, and similar documents.
4. Submit record drawings, maintenance manuals, final project photographs, damage or settlement surveys, property surveys, and similar final record information.
5. Deliver tools, spare parts, extra stock, and similar items.
6. Changeover locks and transmit keys to the Owner.

7. Complete startup testing of systems and instruction of operation and maintenance personnel. Remove temporary facilities, mockups, construction tools, and similar elements.
8. Complete final cleanup requirements, including touchup painting.
9. Touch up and repair and restore marred, exposed finishes.
- D. Inspection Procedures: On receipt of a request for inspection, the Housing Commission will proceed or advise the Contractor of unfilled requirements. The Housing Commission will prepare the Certificate of Substantial Completion following inspection or advise the Contractor of construction that must be completed or corrected before the certificate will be issued.
  1. The Housing Commission will repeat inspection when requested and assured that the Work is substantially complete.
  2. Results of the completed inspection will form the basis of requirements for final acceptance.
- E. Final Acceptance: Before requesting inspection for certification of final acceptance and final payment, complete the following:
  1. Final payment request with releases and supporting documentation. Include insurance certificates where required.
  2. Submit a statement, accounting for changes to the Contract Sum.
  3. Submit a copy of the final inspection list stating that each item has been completed or otherwise resolved for acceptance.
  4. Submit consent of surety to final payment.
  5. Submit a final settlement statement.