



**HOUSTON**  
HOUSING AUTHORITY

Transforming Lives & Communities

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2640 Fountain View Drive, Houston, Texas 77057 | 713.260.0600 | David A. Northern, Sr., **President & CEO**  
**Houston Housing Authority Board of Commissioners:** LaRence Snowden, *Chair* | Kristy M. Kirkendoll, *Vice Chair*  
Dr. Max Miller, Jr. | Stephanie Ballard | Andrea Hillard Cooksey | Kris Thomas | Guillermo "Will" Hernandez

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**REQUEST FOR PROPOSAL**  
**(RFP) 23-05**

The Houston Housing Authority ("HHA"), has issued this solicitation with the intent to establish a contract with a Property Management Firm (PMF) to manage HHA's Low-income Multifamily Public Housing Communities identified in Exhibit D, in accordance with the requirements and terms and conditions specified herein.

Interested parties who wish to respond to this solicitation must submit the required documents to the below individual by **2 P.M. Central Standard Time (CST) March 6, 2023** to:

**Houston Housing Authority**  
**Attn: Austin Y Crotts, MA.**  
**Subject: RFP 23-05 Property Management of HHA's Properties - DO NOT OPEN**  
**2640 Fountain View Drive**  
**Houston, Texas 77057**

**The face of the sealed envelope(s) must contain the above information, and once they are in the possession of HHA, their contents will not be publicly opened or revealed until after a contract is awarded.**

**Interested parties are highly encouraged, to check HHA's website prior to the submission of their sealed response to ensure they are aware of any Amendment(s) that may affect this solicitation. They should also send an e-mail acknowledgement to [Purchasing@housingforhouston.com](mailto:Purchasing@housingforhouston.com), that they have downloaded this solicitation from HHA's website. Doing so, will allow HHA to notify interested parties of any Amendments that may affect this solicitation.**

**Late submissions will be handled in accordance with Section 6 of Attachment H Instructions to Offerors Non-Construction HUD Form 5369-B.**

Interested parties, who have questions about this solicitation, or who need additional information should send an email (**preferably**) to [Purchasing@housingforhouston.com](mailto:Purchasing@housingforhouston.com) with "**RFP 23-05**" in the subject line, by the due date and time specified in Section 4.0 Procurement Schedule. As an alternative, interest parties have the option of sending a fax to 713-260-0810. Any changes to the requirements specified herein will be done via an Amendment.

2-3-2023

Date

*Austin Crotts*

Austin Y. Crotts, MA.  
Procurement Manager,  
Houston Housing Authority



*A Fair Housing and Equal Employment Opportunity Agency. For assistance: Individuals with disabilities may contact the 504/ADA Administrator at 713-260-0353, TTY 713-260-0547 or [504ADA@housingforhouston.com](mailto:504ADA@housingforhouston.com)*

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# **I. ORGANIZATION OVERVIEW**

## **1.0 PROFILE OF THE HOUSTON HOUSING AUTHORITY**

- 1.1 HHA is currently governed by the Housing Authorities Law, codified in the Texas Local Government Code. It is a unit of government and its functions are essential governmental functions. It operates and manages its housing developments to provide decent, safe, sanitary and affordable housing to low-income families, the elderly, and the disabled, and implements various programs designed and funded by the U.S. Department of Housing and Urban Development (HUD). HHA is a Public Housing Agency.
- 1.2 The property of HHA is used for essential public and governmental purposes, and its property are exempt from all taxes, including sales tax on all its purchases of supplies and services.
- 1.3 HHA enters into and executes contracts and other instruments that are necessary and convenient to the exercise of its powers.
- 1.4 HHA maintains contractual arrangements with HUD to manage and operate its Low Rent Public Housing program and administers the Section 8 Housing Assistance Payments programs. HHA's programs are federally funded, and its revenues are received from federal funds, administrative fees, development grants and rental income.
- 1.5 HHA provides affordable homes and services to more than 60,000 low-income Houstonians, including over 17,000 families housed through the Housing Choice Voucher Program and another 5,500 living in 25 public housing and tax credit developments around the city. HHA also administers the nation's third largest voucher program exclusively serving homeless veterans.

**END OF SECTION I**

## II. SPECIAL TERMS AND CONDITIONS

### 2.0 INTENT

2.1 The intent of this solicitation is to establish a fixed price contract with a PMF who is expected to fully embrace the provision of decent and safe rental housing for eligible, low-income, families, elderly and persons with disabilities. The PMF will be expected to demonstrate a high degree of competence and professionalism in the following areas:

2.1.1 Personnel Management;

2.1.2 Maintaining Assets;

2.1.3 Administrative Recordkeeping / Financial Management;

2.1.4 Compliance with applicable Policies and Procedures; and,

2.1.5 Providing Residential Services

### 3.0 PERIOD OF PERFORMANCE

3.1 The successful Offeror shall enter into a management agreement. The term of the management agreements to be awarded shall be for two (2) years with one (1), two (2) year renewal option. The renewal option is subject to Owner's approval. The management agreement includes a provision for termination for convenience by Offeror or Owner with a thirty (30) day written notice. The agreement will also outline situations where the successful Offeror can be terminated immediately "for cause."

### 4.0 PROCUREMENT SCHEDULE

4.1 The following is the anticipated procurement schedule for this solicitation:

<u>EVENT</u>	<u>DATE</u>
<b>Date Solicitation Advertised</b>	<b>February 7, 2023</b>
<b>Deadline for the submittal of written questions to <a href="mailto:Purchasing@housingforhouston.com">Purchasing@housingforhouston.com</a></b>	<b>4 P.M. CST February 20, 2023</b>
<b>Deadline HHA will Post Answers to written questions on <a href="http://Housingforhouston.com">Housingforhouston.com</a></b>	<b>4 P.M. CST February 23, 2023</b>
<b>Deadline for the receipt of sealed responses</b>	<b>2 P.M. CST March 6, 2023</b>
<b>Estimated Contract Award Date</b>	<b>April/May</b>

5.0 **SCOPE OF WORK (SOW)**

5.1 All services will be performed in accordance with the requirements specified in Exhibit A Scope of Work (SOW) attached herein.

6.0 **SELECTION CRITERIA**

6.1 Interested parties that submit the required information by the specified due date and time will have their responses evaluated by an HHA Evaluation Committee, who will utilize the Evaluation Criteria in Exhibit B to evaluate and score all responses.

6.2 HHA reserves the right to make multiple award(s), reject responses at its discretion, request additional information from proposers, select the successful proposer(s) at its sole discretion, and conduct negotiations to establish a contract that is advantageous and beneficial to HHA.

7.0 **SUBMITTALS**

7.1 All responses must conform to the requirements specified herein.

7.1.1 HHA is not responsible for any costs that may be incurred in the development and submittal of any responses to this solicitation.

7.1.2 All submissions, will become a part of HHA's official files, and HHA is not obligated to return any submission(s) once it is in the possession of HHA.

7.2 **ALL ITEMS IN SECTION 7.3 MUST BE DOWNLOADED ON A FLASH DRIVE AS ONE COMPLETE ADOBE FILE, AND SUBMITTED WITH THE COMPLETED DOCUMENTS IN A SEALED ENVELOPE**

7.2.1 **THE CONTENTS AND ACCURACY OF THE FLASH DRIVE SHOULD BE CHECKED BEFORE IT IS SUBMITTED TO HHA.**

7.3 **One (1) original (clearly marked in a three-ring binder), of the responses may be hand delivered, or mailed to the location specified on page 1. Each section of the response must be separated by a numerically sequential "Tab" (i.e., Tab 1, Tab 2, etc.) and contain the following:**

7.3.1 **Cover Letter (CL)**

7.3.1.1 Acknowledge the receipt, review of this solicitation, and any Amendment(s) issued by HHA.

7.3.1.2 The CL must be on company letterhead, manually signed by authorized official of the company (who can negotiate, and contractually bind your company), along with their title, phone number, and e-mail address.

7.3.2 **Experience with Multi-family Housing Communities**

**Note: This information will be used by HHA's Evaluation Committee to assess a score relative to item 1 per Exhibit C Evaluation Criteria.**

### 7.3.3 Approach

**Note: This information will be used by HHA's Evaluation Committee to assess a score relative to item 2 per Exhibit C Evaluation Criteria.**

### 7.3.4 Demonstrated Competence Applying Regulatory and Compliance Standards

**Note: This information will be used by HHA's Evaluation Committee to assess a score relative to item 3 per Exhibit C Evaluation Criteria.**

### 7.3.5 Experience Managing Communities

**Note: This information will be used by HHA's Evaluation Committee to assess a score relative to item 4 per Exhibit C Evaluation Criteria.**

### 7.3.6 Property Management Fees

7.3.8.1 Complete Exhibit G for the property(ies) your Firm desires to manage.

**Note: This information will be used by HHA's Evaluation Committee to assess a score relative to item 5 per Exhibit C Evaluation Criteria.**

### 7.3.9 Property Management Plan (PMP)

7.3.9.1 Submit a PMP based on the requirements in Exhibit B.

7.3.9.2 High standards should be presented in the above document that offers a precise and sound approach to achieve the following benchmarks:

Assessment Indicators	Monthly Targets
Management	<ul style="list-style-type: none"><li>• 100% occupancy</li><li>• 100% Accounts Receivable</li><li>• Accounts Payables not exceeding 10%</li></ul>
Financial	<ul style="list-style-type: none"><li>• Explore opportunities for revenue growth, while reducing expenses</li><li>• Balanced budgets indicated on monthly financial reports</li><li>• Accurate financial reporting and submissions</li></ul>
Physical	<ul style="list-style-type: none"><li>• Accurate electronic data reporting and submissions</li><li>• Progressive oversight and management of a work-order system</li><li>• Consistently maintain property(ies) in superb conditions with daily site inspections and randomly selected unit/system inspections</li><li>• 100% of the unit inspections, annually (UPCS Standards)</li><li>• Evidence of implementing maintenance</li></ul>

	plans <ul style="list-style-type: none"> <li>• Evidence of controlled maintenance expenses</li> </ul>
<b>Capital Funding</b>	<ul style="list-style-type: none"> <li>• Conduct frequent assessments to ensure capital needs are valid and prioritized correctly</li> <li>• Expend 100% of capital funding</li> </ul>
<b>Resident Services &amp; Safety</b>	<ul style="list-style-type: none"> <li>• Ensure 100% residents are treated with dignity &amp; respect, at all times</li> <li>• Promote community safety that deters and minimizes fear, risk of harm and/or injury</li> </ul>

7.3.10 **Attachment A Declaration**

7.3.11 **Attachment B Non-Collusive Affidavit**

7.3.12 **Attachment C M/WBE Participation**

**Note: This information will be used by HHA’s Evaluation Committee to assess a score relative to item 6 per Exhibit C Evaluation Criteria.**

7.3.13 **Attachment D Section 3 Requirements & Commitment**

**Note: This information will be used by HHA’s Evaluation Committee to assess a score relative to item 7 per Exhibit C Evaluation Criteria.**

7.3.14 **Attachment E Conflict of Interest (CIQ) Form**

7.3.15 **Attachment F Representations, Certifications and Other Statements Public Housing Programs (Form HUD 5369-A)**

7.4 HHA may not evaluate responses that do not comply with the submittal requirements specified herein. Responses received after the specified date and time may be considered non-responsive.

**END OF SECTION II**

### **III. GENERAL TERMS AND CONDITIONS**

#### **8.0 AMENDMENTS**

8.1 Any interpretation(s) affecting this solicitation will be issued in the form of an amendment by HHA prior to the specified due date on page 1. HHA will not be bound by, or responsible for any other explanations or interpretations of this solicitation other than those given in writing as set forth herein. Oral instructions, interpretations, or representations will not be binding upon HHA or representatives of HHA. **All amendments shall be binding in the same way as if originally written in this solicitation.**

#### **9.0 AVAILABILITY OF RECORDS**

9.1 The U. S. Department of Housing and Urban Development, the Inspector General of the United States, the HHA, and any duly authorized representatives of each shall have access to and the right to examine any and all pertinent books, records, documents, invoices, papers, and the like of the firm(s) office, that relates to any work that is performed as a result of this solicitation.

#### **10.0 BASIS FOR AWARD**

10.1 See Section 6.0.

10.2 Interested parties are responsible for ensuring they have all documents referenced and incorporated in this solicitation, and are familiar with the contents of those documents. Failure to do so shall be at the sole risk of the offeror and no relief shall be given for errors or omissions by the offeror.

#### **11.0 CANCELLING THE SOLICITATION**

11.1 HHA may cancel this solicitation at any time, and when it is in its best interests to do so. (See Section 7.1.1)

#### **12.0 CONFIDENTIALITY OF SUBMITTALS**

12.1 As stated on page 1, responses to this solicitation will not be opened publicly. All submittals and information shall remain confidential until all negotiations are completed and a Notice of Award is issued. All submittals received by HHA shall be included as part of the official file, and any part of the submittal that is not considered confidential, privileged or proprietary under any applicable Federal, State or local law shall be available for public inspection upon completion of the procurement process. Material submitted by an Offeror that is to be considered as confidential must be clearly marked as such; however, the applicable provisions of Federal, State and local laws shall govern the confidentiality of submittals despite anything contrary to this provision stated in the submittal.

#### **13.0 ETHICAL BEHAVIOR**

13.1 Interested Firms shall not:



- 13.1.1 Offer any gratuities, favors, or anything of monetary value to any official or employee of HHA for the purpose of influencing consideration of a submission; and,
- 13.1.2 Engage in any practice which may restrict or eliminate competition (i.e., collusion), or otherwise restrain trade.

13.1.2.1 The above is not intended to preclude joint ventures or subcontracts.

13.2 Ethical violations will cause a response to this solicitation to be rejected.

14.0 **FEDERAL REGULATIONS WITH REGARD TO NONDISCRIMINATION AND EQUAL OPPORTUNITY**

14.1 The requirements of Title VIII of the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964, relating to prohibitions against discrimination in housing and the benefits of federally funded programs because of race, color, religion, sex or national origin must be met by the successful bidder(s) or proposer(s).

14.2 The successful bidder(s) or proposer(s) will:

14.2.1 Adhere to federal regulations prohibiting discrimination on the basis of age under the Age Discrimination Act of 1975, and prohibit discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans With Disabilities Act of 1990.

14.2.2 Meet the requirements of:

14.2.2.1 Section 3 of the Housing and Urban Development Act of 1968, relating to the training and employment of individuals, and contracting for business opportunities in metropolitan areas in which federally funded programs are being operated.

14.2.2.2 Executive Orders (EO's):

- EO 11246 relating to equal employment opportunity in connection with federally funded programs.
- EO's 11625, 12432, and 12138 relating to the use of minority and women's business enterprises in connection with federally funded programs.

15.0 **INFORMALITIES**

15.1 HHA reserves the right to waive any informality, and make an award that is in the best interest of HHA.

15.1.1 Minor informalities are matters of form rather than substance. They are insignificant mistakes that can be waived or corrected without prejudice to the other proposers/bidders and have little or no effect on price, quantity, quality, delivery, or contractual conditions. Examples include failure to: return the number

of signed bids required by the bid package; sign the bid, provided that the unsigned bid is accompanied by other documents indicating the bidder's intent to be bound (e.g., a signed cover letter or a bid guarantee); complete one or more certifications; or acknowledge receipt of an amendment or addendum, provided that it is clear from the bid that the bidder received the amendment/addendum and intended to be bound by its terms, or the amendment/addendum had a negligible effect on price, quantity, quality, or delivery.

## 16.0 **INSURANCE**

16.0 HHA will specify the amount of insurance that will be required during the Period of Performance.

## 17.0 **MINORITY WOMEN BUSINESS ENTERPRISE (M/WBE) PARTICIPATION**

17.1 Refer to Attachment C for M/WBE Participation requirements.

## 18.0 **MISTAKES IN BIDS**

### 18.1 General

18.1.1 While proposers/bidders will be bound by their submittals (the "firm bid rule"), circumstances may arise where correction or withdrawal of their bid or proposal is proper and may be permitted. Correction or withdrawal of a bid or proposal will be done in a manner that will protect and maintain the integrity and fairness of the competitive solicitation process.

### 18.2 Mistakes Discovered Before Solicitations Are Opened

18.2.1 Interested parties may withdraw or modify their submittals by written or facsimile notice prior to the opening of the solicitations.

### 18.3 Review of Mistakes

18.3.1 After the solicitations are opened, HHA will review all submittals to ensure there are no obvious mistakes, e.g., the sum of individual bid line items does not equal the total price. If a submittal appears to have a mistake, HHA will notify the interested of any apparent mistake(s) in his/her submittal, and request verification of the total price as submitted.

### 18.4 Mistakes After Solicitations Are Opened

18.4.1 If this solicitation is soliciting bids, then in general, bidders will not be permitted to change a bid after bid opening. In rare cases, HHA may permit the revision of a bid if the bidder is able to present clear and convincing evidence, acceptable to HHA, of a mistake and the intended bid price. Allowing changes to bids without appropriate evidence may compromise the integrity of the public bid process and serve to undermine public confidence in HHA's bidding process. Therefore, HHA will request as much evidence as it deems necessary. Examples of evidence may include: original work papers, bids from suppliers and subcontractors used to develop the bid, bonding or insurance evidence supporting a different bid price, etc. Failure or refusal

by a bidder to provide adequate evidence shall result in the original bid remaining unchanged. Consultation with HHA's Legal Dept. will occur before authorization is given change a bid. If justified, a low bidder can be replaced with the next lowest bidder.

## 19.0 **PAYMENT TERMS**

19.1 HHA will process all invoices after the work has been approved by HHA's Project Manager. Payment terms are Net 30 days.

## 20.0 **PERMITS**

20.1 The successful bidder(s) or proposer(s) shall obtain and pay (independent of HHA), all permits, certificates, and licenses required and necessary for the performance of the work specified herein. Furthermore, they shall post all notices required by law, and shall comply with all laws, ordinances, and regulations which may affect their performance.

## 21.0 **PROJECT MANAGER**

21.1 HHA will designate a Project Manager during the Period of Performance.

## 22.0 **QUESTIONS**

22.1 Interested parties should follow the instructions on page 1 should they have any questions about this solicitation. Oral instructions, interpretations, or representations will not be binding upon HHA or HHA's representatives.

22.2 Interested parties are prohibited from querying HHA personnel or members of its Board of Commissioners regarding this solicitation except through written questions submitted in the manner, and within the time frame indicated on page 1 of this solicitation.

## 23.0 **REMOVAL OF EMPLOYEES**

23.1 HHA may request the successful bidder(s) or proposer(s) to remove immediately from the contract/project any employee found unfit to perform their duties due to one or more of the following reasons, which includes, but is not limited to:

23.1.1 Negligence, being disorderly, using abusive or offensive language, quarreling or fighting, stealing, vandalizing property; and,

23.1.2 Engaging in immoral or inappropriate behavior (e.g., being intoxicated, or under the influence of mind-altering substances), or pursuing criminal activity (e.g., selling, consuming, possessing or being under the influence of illegal substances).

## 24.0 **RESERVATION OF RIGHTS**

24.1 Depending upon the circumstance(s), HHA reserve the right to change, modify, or alter any Draft Contract associated with this solicitation.

25.0 **RULES, REGULATIONS AND LICENSING REQUIREMENTS**

25.1 The Offeror and staff must possess all necessary required license(s) to do business in Houston/Harris County and the State of Texas. Additionally, the Offeror, shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein. Offerors are presumed to be familiar with all federal, state, and local laws, ordinances, codes, rules, and regulations that may in any way affect the services.

26.0 **STANDARDS OF CONDUCT**

26.1 During the period of performance, the employees of the successful bidder(s) or proposer(s) shall conduct themselves in a responsible and professional manner, and may be removed from the project if they display behavior that is unacceptable to HHA.

27.0 **SUBCONTRACTING**

27.1 Any contract issued as a result of this solicitation will not be assigned, transferred, or subcontracted (in whole, or in part) unless it has been previously approved by HHA in writing.

28.0 **TAXES**

28.1 HHA is exempt from State of Texas, and Local Taxes.

29.0 **TRAVEL AND REIMBURSEMENTS**

29.1 Any prices/fees mutually agreed upon shall include all necessary out-of-pocket expenses needed to perform the work specified herein. HHA will not issue any reimbursements for travel, lodging, meals, or other miscellaneous or ancillary expenses, unless it is defined in the final contract.

30.0 **VALIDITY OF RESPONSES**

30.1 Responses will not be unilaterally withdrawn or modified for a period of ninety (90) days after they have been received and opened by HHA.

31.0 **SUPPLEMENTS**

31.1 The following documents are incorporated by reference into this solicitation:

- Attachment A: Declaration
- Attachment B: Non-Collusive Affidavit
- Attachment C: M/WBE Participation Forms
- Attachment D: Section 3 Requirements and Commitment
- Attachment E: Conflict of Interest (CIQ) Form
- Attachment F: Representations, Certifications, and Other Statements of Bidders Public and Indian Housing Programs (Form HUD 5369-A)
- Attachment G: Instructions to Offerors Non-Construction (Form HUD 5369-B)
- Attachment H: General Conditions for Non-Construction Contracts Section I (Form HUD 5370-C)

- Attachment I: General Conditions for Non-Construction Contracts Section II  
(Form HUD-5370-C)
- Exhibit A: Scope of Work (SOW)
- Exhibit B: Property Management Plan
- Exhibit C: Evaluation Criteria
- Exhibit D: HHA Property Sites
- Exhibit E: Property Management Fee
- Exhibit F: Draft Contract

31.2 Interested parties are responsible for ensuring they have all documents referenced and incorporated in this solicitation, and are familiar with the contents of those documents. Failure to do so shall be at the sole risk of the offeror and no relief shall be given for errors or omissions by the offeror.

**END OF SECTION III**

**ATTACHMENT A**

**DECLARATION**

The undersigned declares the following:

- This response is being submitted in good faith, and without collusion or fraud
- The only person(s) interested in the aforementioned solicitation is listed below, and that this response is being submitted without connection or arrangement with any other person
- They have complied with the requirements of the aforementioned solicitation, have read all addenda (if any), and is satisfied that they fully understand the intent of the aforementioned solicitation, and the terms and conditions that will govern any award issued by HHA as a result of this solicitation
- They agree to execute an agreement with HHA based on the latter accepting the submittals required by the aforementioned solicitation

Persons Interested in this Response:

Name

Identity of Interest

1.

2.

3.

\_\_\_\_\_  
**NAME OF CONTRACTOR/OFFEROR/FIRM/INDIVIDUAL/CORPORATION**

\_\_\_\_\_  
**MANUAL OR E-SIGNATURE**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**E-MAIL ADDRESS**

\_\_\_\_\_  
**PHONE NUMBER / FAX NUMBER**

\_\_\_\_\_  
**ADDRESS, CITY, STATE, ZIP**

\_\_\_\_\_  
**SUBMITTAL DATE**

**ATTACHMENT B**

**NON-COLLUSIVE AFFIDAVIT**

STATE OF TEXAS

COUNTY OF HARRIS

\_\_\_\_\_, being first duly sworn, deposes and says that he is

\_\_\_\_\_  
(a partner or officer of the firm of, etc.)

the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person to fix the bid price or affiant or of any other bidder, or to fix any overhead, profit, or cost element of said bid price, or of that of any other bidder, or to secure any advantage against

THE HOUSTON HOUSING AUTHORITY

of any person interested in the proposed Contract; and that all statements in said proposal or bid are true.

\_\_\_\_\_  
Signature of Bidder, if Bidder is an Individual

\_\_\_\_\_  
Signature of Bidder, if Bidder is a Partnership

\_\_\_\_\_  
Signature of Officer, if Bidder is a Corporation

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

\_\_\_\_\_  
**Notary Public**

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

**Note: This Form must have a manual signature.**

## ATTACHMENT C

### REQUIREMENTS FOR SUBCONTRACTING WITH SMALL BUSINESSES AND MINORITY BUSINESSES, WOMEN BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

#### I. INSTRUCTIONS.

Any Prime Contractor awarded a contract pursuant to this procurement must agree to comply with the subcontracting requirements set forth below. Please note that the capitalized terms used in this document are defined below in § VII.

**(1) Please read this document carefully; (2) sign the acknowledgement; and (3) complete and sign the attached “Bidder’s Proposed M/WBE Participation Form.”**

#### II. OVERVIEW.

Any contract resulting from this procurement must comply with: (1) the requirements in HHA’s Procurement Policy (the “Policy”) and the Code of Federal Regulations (the “Code”) regarding Subcontracting with small and minority owned businesses, women business enterprises, and labor surplus area firms (the “Policy Requirements”); and (2) HHA’s goal regarding Subcontracting with minority business enterprises and women business enterprises (the “HHA’s Goal”). Any person or firm that receives an award pursuant to this procurement must take affirmative steps to comply with the Policy Requirements and must use their best efforts to meet HHA’s Goal. The Policy Requirements and HHA’s Goal are described in detail below.

#### III. THE POLICY REQUIREMENTS.

Pursuant to the Policy, at § 15, and the Code, at 2 CFR § 200.321, if a Prime Contractor awarded a contract pursuant to this procurement lets Subcontracts, then the Prime Contractor must take affirmative steps to assure that, when possible, Subcontracts are let to Small Business Enterprises (“SBEs”), Minority Businesses Enterprises (“MBEs”), Women Business Enterprises (“WBEs”), and Labor Area Surplus Firms (“LASFs”). The affirmative steps a Prime Contractor who lets Subcontracts must take are:

- Placing SBEs, MBEs, and WBEs, on solicitation lists;
- Assuring that SBEs, MBEs, and WBEs, are directly solicited for bids or proposals whenever such entities are potential sources to perform Subcontracts;
- Dividing total job requirements, whenever economically feasible, into smaller tasks or quantifies to permit maximum participation by SBEs, MBEs, and WBEs, in a given project;
- Establishing delivery schedules, when the requirement permits, that encourage participation by SBEs, MBEs, and WBEs;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and,



- Including in Subcontracts, to the greatest extent feasible, a clause that requires Subcontractors to provide opportunities for training and employment for lower income persons who reside in the project area.

The affirmative steps listed above shall remain in effect for the duration of the Prime Contract awarded pursuant to this procurement. HHA encourages Prime Contractors to implement these steps when acquiring the materials they need to perform their obligations under the Prime Contract.

#### IV. HHA'S GOAL.

##### A. Overview of HHA's Goal and related requirements.

In addition to taking the affirmative steps outlined above in § III, a Prime Contractor who anticipates using Subcontracts to complete any work associated with this procurement must use its best efforts to satisfy HHA's Goal regarding the participation of MBEs and WBEs in work under contracts awarded by HHA. HHA's Goal, as adopted by its Board of Commissioners, is that when Subcontracts are being let, at least 30% of the Prime Contract's total dollar amount is subcontracted to MBEs or WBEs, with at least 15% of the Prime Contract's total dollar amount being subcontracted to MBEs, and at least 15% being subcontracted to WBEs.

In furtherance of HHA's Goal, a Prime Contractor awarded a contract under this procurement who intends to let Subcontracts must use its best efforts to Subcontract with MBEs and WBEs. **Specifically, a Prime Contractor letting Subcontracts must use its best efforts (1) to Subcontract at least 15% of the Prime Contract's total dollar amount to MBEs, and (2) to Subcontract at least 15% of the Prime Contract's total dollar amount to WBEs. A Prime Contractor's obligation to use its best efforts to subcontract with MBEs and WBEs in accordance with HHA's Goal shall remain in effect for the duration of the Prime Contract, shall apply in any instance that the Prime Contractor lets Subcontracts, and shall apply equally to all Prime Contractors letting Subcontracts, regardless of whether the Prime Contractor is itself a MBE or WBE.**

- A Prime Contractor must document its use of best efforts to meet HHA's Goal. Generally, written evidence of a Prime Contractor's attempts to Subcontract with MBEs and WBEs shall suffice to document a Prime Contractor's best efforts. Written evidence may include, but is not necessarily limited to, emails, phone logs, or correspondence showing that a Prime Contractor attempted to Subcontract with MBEs and WBEs by, at a minimum, soliciting bids or quotes. Contractors may access a list of designated MBEs and WBEs at <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>. In addition, upon request, HHA may assist contractors in identifying MBEs and WBEs (but, requesting such assistance, standing alone, is not sufficient to show best efforts).

A Prime Contractor's duty to document its best efforts to meet HHA's Goal shall remain in effect for the duration of the Prime Contract and shall apply to all Prime Contractors awarded a contract pursuant to this procurement. HHA encourages Prime Contractors to use their best efforts to procure from MBEs and WBEs the materials necessary for the Prime Contractor to perform its obligations under the Prime Contract.

**V. CONTRACTOR’S AGREEMENT TO COMPLETE REQUIRED FORMS AND TO COOPERATE WITH HHA REGARDING THE POLICY REQUIREMENTS AND HHA’S GOAL.**

**All respondents to this procurement who anticipate letting subcontracts must complete and return the attached “Bidders Proposed M/WBE Participation Form” (the “Form”).**

Respondents should include the Form in their response to this procurement; in addition, information documenting the respondent’s use of best efforts to subcontract with MBEs and WBEs should accompany the Form. If it does not anticipate letting subcontracts, a respondent must, along with its response, inform HHA of same, and provide a brief explanation of why no subcontracts will be let. HHA will consider as non-responsive any response that fails to include a completed Form; HHA will, however, allow respondents an opportunity to cure a failure to include the Form with a response.

In addition to completing and submitting the Form to HHA, any entity awarded a contract by HHA pursuant to this procurement must provide “M/WBE Confirmation of Payment Form(s),” as necessary or as requested by HHA. Prime Contractor must also to submit proof of payments to SBEs, MBEs, WBEs, and LASFs, as requested by HHA, or as otherwise is required by law.

**VI. CONSEQUENCES FOR FAILING TO TAKE THE AFFIRMATIVE STEPS MANDATED BY THE POLICY REQUIREMENTS OR USING BEST EFFORTS TO MEET HHA’S GOALS.**

If a Prime Contractor letting subcontracts does not take the affirmative steps mandated by the Policy Requirements, use its best efforts to meet HHA’s Goal, or cooperate with HHA with respect to the requirements set forth herein, HHA reserves the right to refuse to award a contract to the Prime Contractor, to deem the Prime Contractor’s response to a solicitation non-responsive, to terminate an existing contract with the Prime Contractor, and to bar the Prime Contractor from being awarded any future contracts by HHA.

**VII. DEFINITIONS.**

- “Code” means the Code of Federal Regulations.
- “Form” means the “Bidders Proposed M/WBE Participation Form” included with this procurement.
- “HHA” means the Houston Housing Authority, and, for the purposes of the requirements set forth herein, HHA’s affiliates and any property management firm procuring work or services for the benefit of a property owned by HHA or its affiliates.
- “LASFs” refers to Labor Area Surplus Firms. Labor Area Surplus Firms are businesses that will expend more than fifty percent of the cost of performing a contract in areas of concentrated unemployment or underemployment, as defined by the Department of Labor and promulgated at 20 CFR Part 654.

- “MBE(s)” refers to minority business enterprises. Minority business enterprises are businesses that are at least fifty-one percent owned by one or more minority group members, or, in the case of a publically owned business, a business where at least fifty-one percent of the business’s voting stock is owned by one or more minority group members and whose management and daily operations are controlled by one or more such individuals. Minority group members include, but are not necessarily limited to: (a) Black Americans; (b) Hispanic Americans; (c) Native Americans; (d) Asian-Pacific Americans; (e) Asian-Indian Americans; and (f) Hasidic Jewish Americans.
- “Policy” means the Houston Housing Authority’s Procurement Policy.
- “Policy Requirements” shall have the meaning set forth in § II above.
- “Prime Contract(s)” means the contract awarded pursuant to this procurement that is between a respondent to the solicitation and HHA. For all purposes herein, the term is inclusive of all change orders or amendments to the initial contract entered between the Prime Contractor and HHA.
- “Prime Contractor(s)” means the person or entity who responds to this procurement and is awarded a contract by HHA.
- “SBEs” refers to small business enterprises. Small business enterprises are businesses that are independently owned, not dominant in their field of operation, and not an affiliate or subsidiary of a business that is dominant in its field of operation.
- “Subcontract(s)” means the contract between the Prime Contractor and a Subcontractor entered to accomplish all or a part of the Prime Contractor’s obligations under its contract with HHA that results from this procurement.
- “Subcontractor(s)” means a person or entity who the Prime Contractor contracts with to perform a part or all of the Prime Contractor’s obligations under the Prime Contractor’s contract with HHA that results from this procurement.
- “WBEs” refers to women business enterprises. Women business enterprises are businesses that are at least fifty-one percent owned by a woman who is a United States citizen, or by women who are United States citizens and who control and operate the business.

**VIII. ACKNOWLEDGEMENT.**

The undersigned has read the foregoing “Requirements for Subcontracting with Small Businesses, Minority Businesses, Women Business Enterprises, and Labor Area Surplus Firm,” and understands and accepts the requirements and obligations set forth therein. When Subcontracting any portion of the work associated with this procurement, the undersigned agrees to take the affirmative steps stated in § III above, and agrees to use its best efforts to meet HHA’s Goal, as stated in § IV above. The undersigned understands and acknowledges that failure to comply the requirements set forth herein may result in HHA refusing to award a contract to the undersigned or the termination of an existing contract.

---

**Name of Firm**

---

**Complete Address**

---

**Name of Individual Completing this Form**

---

**Title**

---

**Direct Phone Number / Cell Phone Number**

---

**Direct Fax Number**

---

**E-Mail Address**

---

**Date**

---

**Manual or E-Signature**

## Bidder's Proposed M/WBE Participation Form

### Instructions

- HHA requires bidders (Prime Contractors) who let Subcontracts to use their best efforts to Subcontract at least 30% of a Prime Contract's total dollar amount to Minority Business Enterprises ("MBEs") or Women Business Enterprises ("WBEs").
- It is HHA's Goal, that Prime Contractors letting Subcontracts award at least 15% of the Prime Contract's total amount to MBEs **and** at least 15% of the Prime Contract's total amount to WBEs.
- The requirement that Prime Contractors letting Subcontracts use their best efforts to Subcontract with MBEs and WBEs applies to all Prime Contractors, regardless of their own status as a MBE or WBE.
- Please complete and sign the form below indicating firm Subcontracting commitments from MBEs and WBEs. Use additional pages, if necessary.
- For detailed information on HHA's MBE and WBE Subcontracting requirements, see Attachment C.

MBEs	Name of MBE Subcontractor	Certification(s)	Amount of Subcontract	Percent of Contract Total
	<i>Total</i>			

**Note: Attach additional sheets if necessary.**

WBEs	Name of MBE Subcontractor	Certification(s)	Amount of Subcontract	Percent of Contract Total
	<i>Total</i>			

**Note: Attach additional sheets if necessary.**

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Manual or E-Signature

**ATTACHMENT D**

**HOUSTON HOUSING AUTHORITY  
SECTION 3 BIDDER’S REQUIREMENTS & COMMITMENT**

<b>Company Name:</b>	
<b>Name of Contact Person for Section 3 Commitment:</b>	
<b>Title:</b>	<b>Contact Number:</b>
<b>Contact Person E-Mail:</b>	
<b>Solicitation Title:</b>	<b>Solicitation #:</b>

- I. **Background** - Section 3 of the Housing & Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (hereinafter “Section 3”) requires the Houston Housing Authority (“HHA”), to the greatest extent feasible, to provide employment and contracting opportunities to low to very low-income individuals, within the City of Houston. These opportunities are created by contracts funded, directly or indirectly, by “HHA”.
  
- II. **Benchmarks & Goals** – Success of Section 3 activities will be measured by the achievement of the following benchmarks, annually:
  - 1) Data demonstrating at least 20% of the total number of labor hours worked by all workers (employed by an employer) were worked by Section 3 Workers that are defined as Low Income Individuals or Youth Build per <https://www.huduser.gov/portal/datasets/il.html> , OR
  - 2) Data demonstrating at least 5% of the total number of labor hours worked by all workers (employed by an employer) were worked by Targeted Section 3 Workers (Public Housing residents, Section 8 participants & Youth Build).
  
- III. **Solicitation Requirements** - Interested parties responding to a HHA solicitation are required to include in their submission, this form (Section 3 Requirements & Commitment), which describes efforts that will be taken to engage Section 3 Participants.”
  
- IV. **Acceptable Section 3 Activities** – Viable Section 3 opportunities are:
  - 1. Hire Section 3 Workers to fill a minimum of 20% of the labor hours needed to honor contractual duties with HHA. (Note: Section 3 Workers can be existing/new personnel who are deemed as low to very low-income individuals, in accordance to HUD’s guidelines).
  - 2. Provide paid on-the-job training (apprenticeship) for Section 3 Workers to enhance job skills in core duties/services related to a bidder’s contractual duties with HHA.
  - 3. Offer subcontracting opportunities preferably to Section 3 Business Concern or other disadvantaged businesses to fulfill contractual duties with the HHA
  - 4. Bidder self-certify they meet at least one criterion to be a Section 3 Business Concerns; when responding to a HHA solicitation:
    - a) At least 51% is owned and controlled by low- or very-low income person; OR
    - b) Business has at least 75% of its’ labor hours performed (over the most recent 3-month period) by Section 3 Workers; OR
    - c) At least 51% is owned and controlled by a Public Housing/Section 8 Participant.
  
- V. **Exemption from Section 3 Activities** - Bidders submitting solicitations for any of the following goods and/or services are exempt from fulfilling any Section 3 commitments:
  - 1) Contracts for “material only” and do not require the hiring of new or expanded labor (office/janitorial supply contracts, etc).
  - 2) Contracts for Section 8 Project-based Vouchers and Project-based Rental Assistance

- 3) Professional Service contracts requiring advanced degrees or professional licensing (engineers, architects, accountants, consultants, etc.)

**VI. Section 3 Commitment** - Bidders shall identify what efforts will be taken during contractual terms to comply with HHA’s Section 3 Requirements to the greatest extent feasible. All bidders are required to select at least one (1) of the following options:

OPTIONS	QUANTIFIABLE COMMITMENT
<input type="checkbox"/> <b><u>OPTION 1 - Exempt</u></b>	Bidder is exempt due any one of the following options: <ul style="list-style-type: none"> <li>○ Contracts for “material only” and do not require the hiring of new or expanded labor (office/janitorial supply contracts, etc).</li> <li>○ Contracts for Section 8 Project-based Vouchers and Project-based Rental Assistance</li> <li>○ Professional Service contracts requiring advanced degrees or professional licensing (engineers, architects, accountants, consultants, etc.)</li> </ul>
<input type="checkbox"/> <b><u>OPTION 2 - Jobs</u></b>	Title: _____ # of Positions: _____ Pay _____ Work Hours _____ Location _____ Skills to be Acquired : _____ Qualifications: _____
<input type="checkbox"/> <b><u>OPTION 3 – Paid Training or Apprenticeship</u></b>	Title: _____ # of Positions: _____ Pay _____ Work Hours _____ Location _____ Skills to be Acquired : _____ Qualifications: _____
<input type="checkbox"/> <b><u>OPTION 4 – Sub-Contracting with Section 3 Business Concerns</u></b>	Company Name _____ Contract Amount \$ _____ % of Contract: _____ Summary of Duties: _____
<input type="checkbox"/> <b><u>OPTION 5 -Existing Section 3 Business Concern</u></b>	Bidder self-certifies they meet at least one of the following criteria to be recognized as a Section 3 Business Concern: <ul style="list-style-type: none"> <li>○ At least 51% is owned and controlled by low- or very-low income person;</li> <li>○ Over 75% of the labor hours performed for the business (over a 3-month period) are performed by Section 3 Workers;</li> <li>○ At least 51% of the business is owned and controlled by current Public Housing resident or Section 8 Assisted participant.</li> </ul>

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Printed Name of Authorized Individual

\_\_\_\_\_  
Date

\_\_\_\_\_  
Manual/E-signature of Authorized Individual

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

**FORM CIQ**

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

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

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

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

**OFFICE USE ONLY**

Date Received

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

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

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

\_\_\_\_\_  
 Name of Officer

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

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

Yes       No

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

Yes       No

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

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

**7**

\_\_\_\_\_  
 Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
 Date



## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

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

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

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

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

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

\*\*\*

(2) the vendor:

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

(2) the date the vendor becomes aware:

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

Attachment F

**U.S. Department of Housing  
and Urban Development**

Office of Public and Indian Housing

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

# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

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### 1. Certificate of Independent Price Determination

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

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

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

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

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

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

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

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

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

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

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

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

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

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

### 2. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

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

#### 6. Minimum Bid Acceptance Period

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

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

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

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

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

The bidder represents and certifies that it:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The bidder certifies that:

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

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

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

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

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

(b) A fully executed "Previous Participation Certificate" [ ] is, [ ] is not included with the bid.

**13. Bidder's Signature**

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

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

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

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

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

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

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

## 2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

## 3. Amendments to Solicitations

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

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

## 4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

## 5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

## 6. Late Submissions, Modifications, and Withdrawal of Offers

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

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

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

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

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

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

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

#### **7. Contract Award**

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

#### **8. Service of Protest**

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

#### **9. Offer Submission**

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

# General Conditions for Non-Construction Contracts

## Section I – (With or without Maintenance Work)

### U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:**

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$150,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

### Section I - Clauses for All Non-Construction Contracts greater than \$150,000

#### 1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

#### 2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

- proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

#### 3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

#### 4. Examination and Retention of Contractor's Records

- (a) The HA, 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:
    - (i) appeals under the clause titled Disputes;
    - (ii) litigation or settlement of claims arising from the performance of this contract; or,
    - (iii) costs and expenses of this contract to which the HA, 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.

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

#### 5. Rights in Data (Ownership and Proprietary Interest)

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

#### 6. Energy Efficiency

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

#### 7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

#### 8. Contract Termination; Debarment

#### 9. 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 HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

#### 10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

#### 11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
  - (i) Award of the contract may result in an unfair competitive advantage; or
  - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

#### 12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

### 13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

### 14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA 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.

### 15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 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, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

## 16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] 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, sexual orientation, gender identity, disability, 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/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] 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.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government 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.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government 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.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) 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 sub[contractor/seller] or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

## 17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, 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 Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

## 18. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

## 19. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

## 20. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD 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 HA employee.

## 21. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

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

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

## 22. 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

# General Conditions for Non-Construction Contracts

## Section II – (With Maintenance Work)

### U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**Applicability. This form HUD-5370C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:**

- 1) Non-construction contracts (*without* maintenance) greater than \$250,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$250,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$250,000 – use Sections I and II.

### Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

#### 1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. 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 classifications and wage rates approved by HUD under subparagraph 1(b), 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.
- (b) (i) 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 only when the following criteria have been met:
  - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
  - (2) The classification is utilized in the area by the industry; and
  - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to 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.

#### 2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD 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.

#### 3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
  - (i) Name, address and Social Security Number;
  - (ii) Correct work classification or classifications;
  - (iii) Hourly rate or rates of monetary wages paid;
  - (iv) Rate or rates of any fringe benefits provided;
  - (v) Number of daily and weekly hours worked;
  - (vi) Gross wages earned;
  - (vii) Any deductions made; and
  - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records 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.

#### 4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
  - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/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; A

- (ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
- (iii) A training/trainee program that has received prior approval by HUD.

- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
- (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
- (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
- (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**5. Disputes concerning labor standards**

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
  - (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

**6. Contract Work Hours and Safety Standards Act**

The provisions of this paragraph 6 are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" includes watchmen and guards.

- (a) **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 he or she 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.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any



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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 the 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 paragraph (a) 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 paragraph (a) of this clause.

- (c) **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 U.S. 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 paragraph (b) of this clause.

## **7. Subcontracts**

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this Section II 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 the provisions contained in these clauses.

## **8. Non-Federal Prevailing Wage Rates**

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under state law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

## Exhibit A

### **Scope of Work (SOW) for RFP**

DISCLOSURE: For purposes of this scope of work, the term “OWNER” refers to HHA for all public housing properties.

DISCLOSURE: Cuney Homes and Ewing are included in the same Asset Management Program (“AMP”). Accordingly, property management services for these two public housing properties are combined as though they are treated like the same property for purposes of this procurement.

The successful property management firm(s) (“Firm” or “Firms”) shall provide all the necessary personnel, supervision, equipment, tools, supplies, materials, transportation, and any other item(s), resource(s), or service(s) needed to perform the following, which includes, but is not necessarily limited to:

#### **1. Administrative / General Office Procedures**

##### **1.1 Administrative Oversight**

1.1.1 Provide adequate administrative oversight to ensure all contractual obligations are achieved.

1.1.2 Provide management-level personnel who shall supervise the Property Management site-level personnel, and serve as the point of contact for the OWNER’s representatives.

##### **1.2 Technology**

1.2.1 Ensure assigned personnel will limit the use of technology for professional purposes only.

1.2.2 Properly maintain all equipment consisting of computers, copier, telephones, fax machines, prints/scanners, email, internet, etc.

##### **1.3 Hours of Operation**

1.3.1 Ensure that OWNER’s sites:

1.3.1.1 Comply with the official business hours of 8 A.M. to 5 P.M., Monday thru Friday;

1.3.1.2 Have holiday schedules that conform to the schedule administered by OWNER; Exception: HHA Asset Management will need to receive requests, to approve 72 hours in advance for staff to work on a scheduled HHA holiday. Staff should not be paid overtime, however given the option to use the day as a floater during the same payroll week; and,

- 1.3.1.3 Are equipped to handle after-hours maintenance and management operations, when necessary.
- 1.4 After-Hours Coverage
  - 1.4.1 Answer office phones 24-hours a day, 365 days a year.
- 1.5 File Retention
  - 1.5.1 Ensure all files are maintained and properly stored for at least seven (7) years; from the date of the last transaction (eviction, removal from wait list, etc.).
- 1.6 Confidentiality
  - 1.6.1 Ensure confidentiality, by securing and properly storing information, along with providing limited access to certain files and information.
- 1.7 Bulletin Boards
  - 1.7.1 Create and maintain information centers and/or bulletin boards with accurate information consisting of, but not limited to: Sample Lease Agreements, House Rules, Grievance Policy, Income Limits, Admission & Continued Occupancy Policy (ACOP), Office Hours, Schedule of Maintenance Charges, Utility Allowance, Event Calendar, Local Resources, Emergency Contact Information, Fair Housing Posters/Logos, Equal Employment Opportunity Poster, Language Requirement, etc.
- 1.8 Key Control
  - 1.8.1 Implement comprehensive key control procedures with verifiable inventory control.
- 1.9 Accessibility
  - 1.9.1 Ensure compliance with all applicable Civil Rights, including Executive order 11063, Section 504 of the Rehabilitation Act of 1973, the Fair Housing Amendment Act and Title II of the ADA.
- 1.10 Annual Inventory
  - 1.10.1 Perform and document an annual inventory of tangible assets.
- 1.11 Financial Record Keeping

1.11.1 Retain financial records for the property which includes, but is not limited to records involving: documentation of rent receipts, operating expenses, accounting for deposits and disbursements, work orders and invoices for goods and services.

## 1.12 Lease Enforcement

1.12.1 Fully execute all terms of OWNER's lease agreements, which includes, but is not limited to: timely rent payments, community service requirements, reporting income/family changes, annual/interim reviews, housekeeping standards, etc.

1.12.2 Ensure assigned personnel are educated and trained on OWNER's lease agreements and other required forms/documents.

## 2. Management Operations / Leasing

### 2.1 Personnel

2.1.1 Provide competent personnel to assume key management and maintenance functions, at the sites. The OWNER must receive the qualifications of the prospective site managers and maintenance supervisors or maintenance managers prior to being assigned to the site.

2.1.1.1 The site manager occupying management of communities with all public housing units must have site management knowledge, including experience managing subsidized properties and property management certification such as CPM, ARM, and/or PHM preferred. The person managing maintenance operations must have experience in property maintenance, including supervisory position and hold appropriate licenses.

2.1.1.2 The site manager occupying management of mixed-income communities, including public housing, tax credit, project base vouchers (PBV), Mod Rehab, and market units must have site management knowledge, including experience at multi-financial layered financing properties and property management certification such as TCS, HCCP, HCVS, CPM, ARM, and/or PHM preferred. The person managing maintenance operations must have experience in property maintenance, including supervisory position and hold appropriate licenses.

### 2.2 Rent Collection

2.2.1 Collect and enforce the collection of rentals and other charges due from tenants in accordance with the terms of their lease. The Manager will be responsible for collection of rents and charges owed by residents, as well as any and all requests necessary for RAD and/or LIHTC subsidy funding.

- 2.2.1.1 Place deposits (consisting of rentals and other charges), in the Operating Account.
  - 2.2.2 Serve or caused to be served notices of default, in a format acceptable to OWNER, upon tenants and other occupants of the Property who are in default in the payment or performance of any obligation under their respective leases or agreements, shall attempt to cause such defaults to be cured and shall receive or cause to be received any notices of default served upon OWNER as landlord. Submit to OWNER a copy of any such notice of default promptly after its delivery or receipt thereof, as the case may be. Firm shall have the right to institute legal proceedings (in OWNER's name) with legal counsel selected/provided by OWNER for the collection of such rentals and charges and for the dispossession of tenants and others from Property.
    - 2.2.2.1 Firm shall not make any settlement regarding delinquent rentals and other charges due from any tenant by compromising or otherwise adjusting the amount payable to OWNER, or grant any release or waiver regarding such rentals and charges, unless previously approved by the OWNER.
    - 2.2.2.2 The property manager is required to meet applicable Tenant Accounts Receivable regulatory and policy performance standards, in a given month. Failure to comply to each performance standard separately, may result in Owner fee retention.
- 2.3 Utility Allowances
- 2.3.1 Ensure assigned employees are trained on making the necessary annual utility adjustments (in the tenant management system), and can explain utility allowance/adjustments to tenants.
  - 2.3.2 Note: OWNER's residents either pay for their utility costs in their rent (project paid utilities) or submit payments directly to select utility firm. Resident-paid utilities receive reduced rent based on an Allowance for Utilities that is established by the OWNER.
- 2.4 General Management Functions
- 2.4.1 Perform the following property management tasks:
    - 2.4.1.1 **Operating program functions utilizing Emphasys Elite Tenant Management & Accounting Software**
      - 2.4.1.1.1 Ensure how assigned personnel are trained and prepared to do the following tasks, which includes, but is not limited to: Move-ins Annual/Interim Reviews, Posting Payments/Charges, Inspections, etc.).

2.4.1.1.2 Note: OWNER provides the required tenant software for firm(s) to process all management functions for public housing units. OWNER will allow alternative use of other software for the management of non-public housing units.

#### 2.4.1.2 Move- Inspection

2.4.1.2.1 Complete all required forms and data–entry tasks to ensure all new Move-Ins are conducted correctly, including assigning personnel to escort all new tenants to the unit to conduct a Move-Inspection.

#### 2.4.1.3 Lease Execution

2.4.1.3.1 Complete all required forms, calculations, verifications, electronic submissions and data-entry tasks for executing a lease, accurately. Personnel shall also ensure tenants understand critical tenant duties and responsibilities, along providing them with copies of all documents. Compliance reviews for public housing programming should be processed according to HUD regulatory requirements.

#### 2.4.1.4 Resident Charges

2.4.1.4.1 Conduct the necessary inspections to ensure appropriate changes are billed to residents appropriately and within a timely manner.

#### 2.4.1.5 Tenant Reviews

2.4.1.5.1 Conduct annual and interim reviews to determine tenants' eligibility for admission and continued occupancy, based on applicable regulatory entity and requirements. Firms are required to ensure their personnel competence in completing all required forms, calculations, data entry and verifications in accordance to OWNER's policy and federal regulations. Typical information included in reviews includes income, family composition, age, relationship of household members, eligibility for deductions/preferences, citizenship/immigrants' status and tenant history.

#### 2.4.1.6 Lease Renewal

2.4.1.6.1 Review annually, all residents' tenancy as a part of their annual reexamination, based on applicable regulatory entity and requirements. Conduct general compliance reviews to ensure occupants complied with their lease agreements.

Residents who have not complied with their tenant responsibility(ies) shall be forwarded to OWNER for administrative review for eviction.

2.4.1.7 Termination of the Lease

2.4.1.7.1 Enforce the termination of a lease.

2.4.1.8 Move-Out Process

2.4.1.8.1 Conduct all move-outs in a professional and organized manner regardless of the basis (voluntary and/or duress).

2.4.1.9 Monitoring Unit Turnover

2.4.1.9.1 Ensure vacant units are prepared and occupied, in accordance to the timeline established by OWNER.

2.4.10.1 Formal Resident Grievances

2.4.10.1.1 Ensure formal resident grievances are conducted as required by OWNER.

2.4.11.2 Communications

2.4.11.2.1 Ensure there is frequent communication with tenants utilizing appropriate and reasonable methods to ensure information is distributed, in a timely manner.

2.5 Wait List

2.5.1 Interact with OWNER to retrieve files from a centralized and/or site base wait list maintained by OWNER.

2.5.2 Independently manage a site-based wait list, if applicable to the site.

2.5.3 Note: OWNER maintains a centralized and site-based wait list processes for its portfolio. The implementation of a wait list system varies by property.

**3. Maintenance & Operations**

3.1 Staffing

3.1.1 Ensure enough personnel resources and training are available to ensure the proper care of the property and the units.

- 3.1.2 General maintenance duties (i.e., supervision, routine, skilled trade, seasonal, inspections, etc.) will be completed at each site.
- 3.2 Maintenance Plan and Standards
  - 3.2.1 Keep a current Operation & Maintenance Plan.
  - 3.2.2 Maintain the Property in first-class condition at all times in accordance with the criteria developed by OWNER (that will be amended from time to time), and as required to address any terms in the lease.
    - 3.2.2.1 The condition of the property shall also be maintained so that it complies with any governmental or insurance requirement, the requirements of any restrictive covenants, security instruments and declarations, and financing documents, and similar requirements affecting the Property.
  - 3.2.3 Promptly remedy any and all identified violation(s).
  - 3.2.4 Complete preventive, seasonal and planned maintenance tasks, including but limited to: unit interior, common areas, grounds, building systems, playground equipment, community gardens, etc.
    - 3.2.4.1 The Site Manager will be expected to take a proactive approach to maintenance and perform all needed preventative maintenance work at the site. The Manager will submit to the Owner within 60 days of assuming management of site a preventive maintenance plan specifying building components and equipment that will be subject to preventive maintenance and the preventive maintenance schedule for each item.
- 3.3 Site Inspections
  - 3.3.1 Conduct daily inspections at each site to ensure timely identification of property/exterior unit damages, vandalism, accidents, curb appeal, fire/safety problems etc.
- 3.4 Work Order
  - 3.4.1 Capture all maintenance work (including routine, nonroutine and emergency, but excluding general cleaning and porter services) on a work order.
    - 3.4.1.1 Emergency:  
Emergency work orders are defined as orders that address an immediate threat to life, health, safety to property or to the resident or are related to fire safety. The Owner's standard for completion of an emergency work order is for all orders to be completed or abated within 24 hours.



#### 3.4.1.2 Non-Emergency:

Non-emergency work orders are orders that address conditions that do not pose an immediate threat to life, health, safety to property or to the resident and not related to fire safety. The Owner's standard for the completion of non-emergency work orders is within four (4) days.

3.4.2 The property manager is required to meet applicable Work Order completion time in accordance to regulatory and policy performance standards. Failure to comply to each performance standard separately, may result in Owner fee retention.3.4.2 Personnel will record, close and bill repairs supported by a work-order, within the time period established by OWNER.

### 3.5 Annual Home Inspections

3.5.1 Implement a comprehensive schedule that allows annual inspections to be conducted for each unit in accordance to HUDS' Uniform Physical Condition Standards (UPCS). This should include a proposed schedule outlining what personnel will manage and implement the schedule to ensure 100% of the units will be inspected, within the time period authorized by OWNER.

#### 3.5.1.1 Inspections:

The Owner's annual standard for inspections is for all housekeeping and mock UPCS inspections to be conducted each year. Further, all units must be inspected the property manager within 12 months of the previous HQS inspection.

### 3.6 Cleaning & Preparing Vacant Units (Make-Ready)

3.6.1 Implement high-standards to ensure vacant units are properly cleaned and prepared for the next occupant. All units shall be prepared in accordance with OWNER's and HUD's UPCS standards, within the time period authorized by OWNER.

3.6.2 The property managers are required to meet applicable regulatory and policy performance standards in the following areas, in a given month: Vacancy Rate and Vacant Unit Turn-Around time. Failure to comply to each performance standard separately, may result in Owner fee retention

3.6.3 Prepare vacant units which shall include but not limited to: pre-inspections/move-out inspection, general cleaning, repairing, replacing, pest control, final inspections, etc.

3.6.4 Note: OWNER values the leasing of clean and functioning units. It is imperative that firms implement high-standards to ensure vacant units are properly cleaned and prepared for the next occupant.

### 3.7 Inventory and Material Management

3.7.1 Maintain adequate levels of inventory that address maintenance demands, at each site.

3.7.2 Ensure all inventory is secured.

### 3.8 Maintenance Contracts

3.8.1 Maintain on-going maintenance contracts (landscaping, fire/security alarm monitoring, pest control, trash, etc.) and small job contracts (painting, carper cleaning, security building monitoring, pest control, etc.), that are executed for no longer for 12-months.

3.8.1 Ensure general and small job contracts and are procured correctly and timely in accordance with OWNER's policies and applicable federal regulations (including, but not limited to 2 CFR Part 200). This includes vendor registration, specifications, documents indicating comparison of quotes, executive contracts, quality inspections/controls of firms, etc.

### 3.9 Meter Reading Services

3.9.1 Collaborate and interact with a third-party meter reading vendor selected by OWNER. Meter reading services will determine and record the utility usage for every unit, at four (4) mastered-meter public housing sites (Clayton Homes, Cuney Homes, Irvinton Village and Kelly Village).

## 4. Reporting / Notices

4.1 Provide reports and/or statistical analysis that demonstrates the OWNER's sites are functioning and performing at optimal levels, as requested by OWNER.

4.1.1 Note: OWNER shall establish a standard reporting schedule, along with special request submitted from time to time.

4.2 Ensure the following reports will be submitted accurately and timely:

4.2.1 Vacancy (list of vacant units, # of days units were vacant, loss revenue, etc.)

4.2.2 Admission/Move-in (list of new tenants and unit assignment)

4.2.3 Move-Out (List of voluntary and involuntary move-outs, reason, etc.)

4.2.4 Tenant Receivables (tenant charges collected for rent, repairs, fees, etc.)

4.2.5 Loss of Revenue (uncollected tenant charges for rent, repairs, fees, etc.)

4.2.6 Quality Control Reviews (# of units/systems inspected, # of deficiencies identified, # of work orders created, # of work orders closed)

- 4.2.7 Maintenance Quality Reviews (# of work orders received, type of work orders received, average time (days) work order was open, etc.)
- 4.2.8 Site Report (information about other key policy, compliance and regulatory actions)
- 4.2.9 Community Service Reports – indicating completed hours and eligible tenants
- 4.2.10 Unit/System Inspections – indicating the results of completed unit and system reports conducted, along with itemized deficiencies and corrective measures.
- 4.2.11 Any other reports requested by the OWNER.
- 4.3 The completion of most management functions shall include data-entry of critical information in OWNER’s tenant software for electronic submission. It is imperative that this information be entered accurately and timely for reporting purposes.
- 4.4 Notify OWNER upon the receipt of all formal and informal communications received from any and all stakeholders (funders, investors, elected officials, etc.) regarding compliance, regulatory matters and tenant concerns.
  - 4.4.1 Note: OWNER will review correspondences and collaborate with firm(s) on corrective actions and/or written responses.

## **5. Financial Management**

### **5.1 Taxes/Assessment Fees**

- 5.1.1 Pay all taxes and other governmental assessments on the Property, and furnish OWNER with copies of all assessment notices and tax bills promptly after receipt. Alternatively, at OWNER's request, coordinate the payment of all such taxes with any tax escrow agent or depository designated by OWNER. Promptly notify OWNER of any notices or correspondence actually received regarding taxes or assessments with respect to the Property.
- 5.1.2 When requested by OWNER, file applications for abatement of taxes and assessments.
  - 5.1.2.1 Note: It is OWNER’s responsibility to diligently prosecute such applications at its’ sole expense and is otherwise solely responsible and liable for any taxes or assessments.

### **5.2 Records and Reports**

5.2.1 Account for, and report the operations of the Property in accordance with Generally Accepted Accounting Principles (GAAP) set for certified public accounting.

### 5.3 Budgets

5.3.1 Provide OWNER with a budget within at least ninety (90) days prior to the end of each calendar year.

5.3.2 Submit to OWNER for its review and written approval:

5.3.2.1 An operating budget for the Property ("Operating Budget") setting forth in reasonable detail and on a monthly basis the estimated income and operating expenses of the Property for the following calendar year, including real estate taxes and Manager's compensation; and,

5.3.2.2 A capital improvement budget for the Property ("Capital Budget", and together with the Operating Budget, each a "Budget", and collectively the "Budgets") setting forth in reasonable detail a description of each capital improvement to the Property which Firm proposes for the following calendar year and the estimated cost of each such improvement.

5.3.3 Present in a format requested by OWNER, an Operating Budget and Capital Budget.

5.3.3.1 Note: In the event OWNER, in its reasonable judgment, disapproves of any proposed Operating Budget or Capital Budget submitted by Firm, OWNER shall give Firm written notice, in which event the Firm shall promptly make all revisions thereto which OWNER shall direct, and shall resubmit such budget so revised to OWNER for its review and approval. Until such time as a new Budget is approved, Firm shall operate the Property in accordance with the prior Budget approved by OWNER.

5.3.4 Firm and OWNER may propose changes to an approved Budget from time to time.

5.3.4.1 Note: Any change in the Capital Budget or increases or decreases shall be approved by the OWNER in advance. Firm will pay all property bills as they come due and make periodic requests for reimbursements in accordance with the Budgets. OWNER reserves the right to modify and/or update any Budget periodically throughout the applicable fiscal or calendar year.

### 5.4 Accounting Records

5.4.1 Maintain accurate books and records of all funds received and disbursed in connection with the management of the Property (together with sufficient supporting documentation), separately, and take the necessary steps to ensure they

are not commingled with records or funds of other properties managed by the Firm. Said books and records shall be open for inspection and audit by OWNER's agents at all reasonable times.

- 5.4.2 Preserve such books and records for at least seven (7) years after the close of the calendar year to which they relate, understanding that some files (e.g., tenant files with outstanding grievances, G/Ls, P & Ls, etc.) are maintained indefinitely as directed by OWNER. The cost of any audit shall be at the expense of OWNER. Any adjustment in amount due and owing by either OWNER or Firm as a result of any such audit shall be paid within fifteen (15) business days following receipt of such audit.
- 5.4.3 Utilize best efforts to exercise control over accounting and financial transactions so as to protect OWNER's assets from theft or fraudulent activity on the part of Firm's employees. Losses arising from such instances will be borne by the Firm unless covered by insurance that protects OWNER.

## 5.5 Monthly Reports

- 5.5.1 Provide OWNER with the requested reports on or before the tenth (10<sup>th</sup>) day of each month.
- 5.5.2 Provide the following reports to OWNER to disclose as a minimum, all income (both received and accrued), expenses, and cash flow for the preceding month (accrual basis):
  - 5.5.2.1 Summary operating statement and detail operating statement prepared in a format showing budget comparison and variance from same;
  - 5.5.2.2 Statement of disbursements, itemizing each disbursement made during the monthly period by check number, amount and payee;
  - 5.5.2.3 Summary schedule of aged accounts receivable itemizing all outstanding monies at the close of the monthly accounting period and listing all monies collected for the month;
  - 5.5.2.4 Descriptive summary of the operation of the Property during the prior month, highlighting all significant occurrences and anticipated problems and explanations for all material variances and expense items (actual compared to budget) for current month and year to date comparisons;
  - 5.5.2.5 Report disclosing any contract or agreement with, or the payment of money to, any entity affiliated with or related to Firm in any way;
  - 5.5.2.6 Summary and detail balance sheet;
  - 5.5.2.7 Accounts payable report; and,

5.5.2.8 Bank account reconciliation.

5.6 Quarterly Reports

5.6.1 Provide OWNER with the requested reports on or before the tenth (10<sup>th</sup>) day after the end of each calendar quarter for Tax Credit Properties. Deliver to OWNER a current rent roll with a summary operating statement for the prior three (3) months, on a form required by OWNER.

5.7 Annual Report

5.7.1 Provide OWNER with requested reports within thirty (30) days after the end of each calendar year.

5.7.2 Deliver to OWNER the following reports in a format approved by OWNER:

5.7.2.1 A schedule of accounts payable, enumerating vendors' invoices received and to be paid in the new calendar year;

5.7.2.2 An accrued expense schedule, enumerating all items of expenses incurred in the calendar year;

5.7.2.3 A rent roll scheduling the names of the residents, square footage, current annual rent and lease term, which rent roll shall be updated periodically when appropriate for Tax Credit properties; and,

5.7.2.4 An annual income statement and balance sheet certified by an independent certified public accountant acceptable to OWNER. The accountant's fee shall be OWNER's expense.

**6. Establishment of Operating Account**

6.1 Maintain all rent and other revenues and funds which are received by the Firm for OWNER, in its capacity as the exclusive manager of the Property(ies).

6.2 All rent and other revenues will be held in trust and deposited by the Firm in a bank account or accounts as designed by OWNER (the "Operating Account") and maintained by Firm for the benefit of and in the name of OWNER. All such funds shall be and remain the properties of OWNER and shall be disbursed by Firm for the purposes authorized under the Agreement. In no event shall checks be drawn thereon to the order or for the benefit of any person except by law and by agreement. Firm shall not commingle OWNER's funds with the funds of any other person and shall implement a cash control system reasonably acceptable to OWNER.

6.2.1 Funds may be drawn from the Operating Account only upon such authorized signatures as OWNER may direct from time to time.

6.2.2 Note: From time to time, OWNER will provide additional funds to the Operating Account as deemed reasonably necessary by Firm and OWNER.

## **7. Disbursements by Firm**

- 7.1 Pay disbursements from the Operating Account, and not from the Firm's own funds.
- 7.2 Promptly notify OWNER if the funds in the Operating Account are insufficient to make the payments described above, and indicate what efforts will be taken to promptly correct the deficit.

## **8. Procurements**

- 8.1 Designate one person to be responsible as the Procurement Liaison, who will coordinate, gather, and submit copies of all required documents (including but not limited to bids, scopes of work, and independent cost estimates) to OWNER's asset management representative for review and approval on each and every procurement initiated or handled by the Property Manager onsite.
- 8.2 Execute and renew services, on OWNER's behalf. These services include, but are not limited to: (a) contracts for electricity, gas, telephone, water, cleaning, pest control, landscaping, office supplies, garbage and trash removal and other services in the ordinary course of business, and (b) purchase all supplies and equipment which are necessary to maintain and operate the Property in a first-class condition.
- 8.3 All procurements shall be made in accordance with the applicable procurement policy, federal regulations (including but not limited to 2 CFR Part 200), and state law if state law applies.
- 8.4 Note: All contracts made pursuant to this section shall be terminable by OWNER without cause on no more than thirty (30) day notice unless otherwise approved in advance by OWNER. All expenses shall be charged to OWNER at no more than cost, and shall not at any time exceed fair market value as determined by either approval of OWNER or substantiated by quotes from arms'-length vendors.
- 8.5 The relevant contractual information from all procured contracts shall be into the contract administration database utilized by OWNER. Personnel at the property sites will be expected to utilize this software.

## **9. Capital Projects**

- 9.1 Upon request by OWNER, supervision of OWNER Construction
  - 9.1.1 Assist OWNER in honoring its obligations to make alterations, improvements, or capital improvements to the Property.

9.1.2 Respond to written requests from OWNER regarding:

9.1.2.1 Coordinate, when appropriate, with OWNER, tenants, architects, engineers and firms, to prepare and finalize construction plans;

9.1.2.2 Hire, in OWNER's name, appropriate and acceptable contracts, which contracts shall be in OWNER's name;

9.1.2.3 Make periodic, random project inspections;

9.1.2.4 Approve:

9.1.2.4.1 The construction schedule

9.1.2.4.2 The quality of workmanship

9.1.2.4.3 Requisitions for progress payments

9.1.2.4.4 All change orders

9.1.3 Represent OWNER during the final inspection of the completed job;

9.2 Capital Planning

9.2.1 Conduct annual capital assessments that identifies major improvements and/or upgrades at the site, forward their recommendations to OWNER.

## **10. Risk Management**

10.1 Notice of Claims

10.1.1 Promptly notify and inform OWNER, and its insurance carrier of any actual or potential personal injury, or property damage occurring to, or on the Property which becomes known to the Firm.

10.2 Bonding

10.2.1 Maintain bonds or employee dishonesty insurance in an amount reasonably acceptable to OWNER, for all of the firm's employees who handle, or are responsible for OWNER's money or property.

10.3 Notices

10.3.1 Notify OWNER of any fire, accident, or other casualty, condemnation proceedings, rezoning or other governmental order, lawsuit or threatened lawsuit involving the property, violations relative to the leasing, use, repair and maintenance of the Property under any governmental law, ordinance, rule or



regulation, and of any material defects in the Property, promptly after any such matters are discovered by the firm and/or are brought to Manager's attention.

#### 10.4 Emergency Procedures Plan / Manual

10.4.1 Maintain an emergency plan with procedures that safeguards all persons (employees, residents & visitors) and property. The plan shall provide specific directives on: saving lives, securing the property, prevent emergencies, preparing/reacting for an emergency, evacuation, fire/safety drills to include Active Shooter Training, restoring the property after an emergency, etc.

10.4.2 Maintain written plans for mold & moisture prevention, prevention of exposure to lead or asbestos containing materials, and handling reporting and remediation of said items when discovered.

#### 10.5 Permitting / Certification

10.5.1 Ensure all permits and certifications are current and/or updated timely to comply with all applicable Federal, State, local requirements.

10.5.2 At a minimum, monitor; fire alarm control panels, fire permits, occupancy, gas tests, etc.

### 11. Resident Relations / Community Safety

#### 11.1 Tenant Complaints

11.1.1 Respond promptly to complaints and requests from tenants of the Property (within 3 business days), and provide to OWNER any material complaints made by a tenant. Asset Managers should be informed within 24 hours with a resolution in writing.

#### 11.2 Tenant Satisfaction Surveys

11.2.1 Measure, quarterly residents' satisfaction with their units, curb-appeal, community safety, interaction with personnel, resident programs, work orders, etc. Results should be submitted to Owner's PHO Department to the attention of the Director of Asset Management

<b>Quarter</b>	<b>Due Date</b>
First Quarter	May 1 <sup>st</sup>
Second Quarter	August 1 <sup>st</sup>
Third Quarter	November 1 <sup>st</sup>
Fourth Quarter	February 1 <sup>st</sup>

### 11.3 Community Newsletter

11.3.1 Distribute monthly newsletters to promote open and continues communication between management, residents, and OWNER.

### 11.4 Resident Councils

11.4.1 Maintain open dialogue with all residents who are identified by OWNER as dully-elected officers of their site's resident council. Frequent meetings (weekly or monthly) shall be scheduled with management personnel, resident council officers and an OWNER representative to discuss topics that are in the best interest of the property.

### 11.5 Resident Council Funds

11.5.1 Resident Council Funds are managed by HHA in accordance to OWNER's policy.

11.5.2 Note: OWNER authorizes resident councils established at sites with public housing units to receive revenue collected from on-site laundry rooms, private rentals in the community building, vending machines, and any other pre-approved HHA approved revenue option

### 11.6 Resident Program/Services

11.6.1 Host and/or co-host with OWNER, events, as necessary, that promotes positive interactions between management, residents and OWNER. Events shall be organized in collaboration with the resident council and/or OWNER representatives.

### 11.7 Supportive Services

11.7.1 Collaborate with Client Services and Resident Council to procure a non-profit organization to provide essential on-site supportive services for sites governed under a Land Use Restrictive Agreement, and in conformity with applicable laws.

### 11.8 Community-Meetings

11.8.1 Property manager will engage residents once monthly in scheduled community meeting to cultivate a sense of community, and fostering resident engagement by continuously sharing agency and property announcements, program updates, lease education, and policy changes, as well as encouraging the exchange of ideas via discussions.

11.8.1.1 Property managers shall collaborate with HHA Client Services, Resident Council, community resources, and third-party law enforcement services selected by OWNER for effective safety and law enforcement presence, as needed.

## 11.9 Safety Prevention / Intervention

11.9.1 Provide preventive and intervention strategies to deter criminal activity. As a minimum; these strategies should be related to the usage of lighting, signage, access control, security equipment, environmental design/landscaping, resident programs/meetings, etc.

11.9.1.1 Property managers will engage open/consistent communication with assigned officers; coordinate the recording of reports received from law enforcement, and lease enforcement for violators engaged in criminal activity, inform residents about Community Activities & Programs, House Rules, Housekeeping, Know Your Lease, Rent, Resident Services, See Something Say Something, Annual Recertifications, etc.

## 11.10 Transitional Plan

11.10.1 Assume full managerial control of site(s) that is new to their portfolio. This includes, but is not limited to: personnel, tenant files, keys, insurance, inventory, transferring of utility/contractual obligations, signage, etc.

## Exhibit B

### **Property Management Plan (PMP) Requirements**

DISCLOSURE: For purposes of this document, the term “OWNER” refers to HHA for all public housing properties.

DISCLOSURE: Cuney Homes and Ewing are included in the same Asset Management Program (“AMP”). Accordingly, property management services for these two public housing properties are combined as though they are treated like the same property for purposes of this procurement.

#### **1. Administrative / General Office Procedures**

##### **1.1 Administrative Oversight**

- 1.1.1 Provide a detailed plan indicating the hiring and/or retaining of management-level personnel with the sole responsibility of overseeing day-to-day operations at the site.
- 1.1.2 Indicate the methodology used to select management-level personnel, along with the minimum qualifications for their positions. The plan should also specify the positions’ roles and responsibilities with the inclusion of an organizational chart; indicating acceptable span of controls.

##### **1.2 Technology**

- 1.2.1 Provide a plan indicating how assigned personnel will limit the use of technology for professional purposes only, and how it will properly maintain all equipment consisting of computers, copier, telephones, fax machines, prints/scanners, email, internet, etc.

##### **1.3 Hours of Operation**

- 1.3.1 Indicate how office operations will be maintained during normal hours of operation (i.e.: accessibility during formal visits, scheduling, and availability).

##### **1.4 After-Hours Coverage**

- 1.4.1 Indicate what provisions will be required for after-hour coverage (maintenance, management and emergency) during non-business hours (nights, weekends and holidays).  
Indicate how after-hour maintenance operations will be sustained Office phones will be answered 24-hours a day, 365 days a year.

##### **1.5 Confidentiality**

1.5.1 Outline the efforts to ensure confidentiality, by securing and properly storing information, along with providing limited access to certain file and information.

## 1.6 Bulletin Boards

1.6.1 Indicate how information centers and/or bulletin boards will be created and maintained with accurate information consisting of but not limited to: Sample Lease Agreements, House Rules, Grievance Policy, Income Limits, Admission & Continued Occupancy Policy (ACOP), Office Hours, Schedule of Maintenance Charges, Utility Allowance, Event Calendar, Local Resources, Emergency Contact Information, Fair Housing Posters/Logos, Equal Employment Opportunity Poster, Language Requirement, etc.

## 1.7 Key Control

1.7.1 Submit a plan for key control procedures. It should be comprehensive, and indicate how keys will be maintained for offices, residential units, maintenance area, store rooms, entrance doors, laundry rooms, mailrooms, equipment rooms, exterior gates, etc.

## 1.8 Accessibility

1.8.1 Indicate what best efforts will be taken to ensure compliance with all applicable Civil Rights, including Executive order 11063, Section 504 of the Rehabilitation Act of 1973, the Fair Housing Amendment Act and Title II of the ADA.

## 1.9 Annual Inventory

1.9.1 Provide a plan outlining the completion of bi-annual inventory consisting of but not limited to items located in: all offices, community building, computer lab, store rooms, resources rooms, libraries, youth rooms, appliances located within the units, etc. The Plan shall include the provision of copies of all completed inventory logs.

## 1.10 Financial Record Keeping

1.10.1 Indicate how assigned personnel will be trained to properly maintain financial records.

## **2. Management Operations / Leasing**

### 2.1 Personnel

2.1.1 Provide a detailed plan indicating the hiring and/or retaining of personnel who will oversee and manage day-to-day operations.

2.1.1.1 Include:

2.1.1.1.1 The selection and supervision of personnel, and their respective qualifications for all positions assigned to the site;

2.1.1.1.2 Professional development schedule;

2.1.1.1.3 Summary of each position's role and responsibilities; and,

2.1.1.1.4 An organizational chart, indicating acceptable span of controls and lines of authority.

2.2 Rent Collection

2.2.1 Indicate how the collection and enforcement of rentals and other charges will be done in accordance with the terms of a lease.

2.3 Utility Allowances

2.3.1 Provide a plan indicating how assigned employees will be trained on making the necessary annual utility adjustments (in the tenant management system), and being able to explain utility allowance/adjustments to tenants.

2.4 General Management Functions

2.4.1 Indicate what superior efforts will be used to implement processes, systems and manpower to perform the following property management tasks:

2.4.1.1 Tenant Management & Accounting Software

2.4.1.1.1 Indicate how assigned personnel will be trained and prepared to do the following tasks, which includes, but is not limited to: Moving-Ins, Annual/Interim Reviews, Posting Payments/Charges, Inspections, etc).

2.4.1.2 Resident Charges

2.4.1.2.1 Outline what efforts will be taken to identify and bill tenants appropriately, and within a timely manner.

2.4.1.3 Lease Renewal

2.4.1.3.1 Provide a plan outlining how lease renewal will be completed to ensure every tenant has a current lease.

#### 2.4.1.4 Termination of the Lease

2.4.1.4.1 Outline the efforts to proceed in terminating leases upon: 1) receipt of written notice from residents or 2) initiating legal action(s). Also, describe the efforts to be taken to provide effective notice to the tenant in this regard.

#### 2.4.1.5 Move-Out Process

2.4.1.5.1 Describe the steps that will be taken to ensure a successful move-out includes, but is not limited to: notice, completion of forms, final inspection, and collection of keys, tenant charges and reporting.

#### 2.4.1.6 Monitoring Unit Turnover

2.4.1.6.1 Provide a plan describing the internal controls to ensure vacant units are prepared and occupied, in accordance to the timeline established by OWNER.

#### 2.4.1.7 Communications

2.4.1.7.1 Outline the plans to distribute information, at least weekly, to all units.

### 2.5 Waiting List

2.5.1 Provide a plan indicating how personnel will interact with OWNER in retrieving files from a centralized waiting list maintained by OWNER, along with procedures for independently managing a site-based waiting list.

## 3. **Maintenance & Operations**

Provide an Operation & Maintenance Plan. To the extent not covered within the Operation & Maintenance Plan, provide the following:

### 3.1 Staffing

3.1.1 Provide a staff plan outlining how general maintenance duties (supervision, routine, skilled trade, seasonal, inspections, etc.), will be completed at each site. An organizational chart shall also be included.

### 3.2 Maintenance Plan and Standards

3.2.1 Provide a detailed plan describing what efforts will be used to maintain the Property in first-class condition at all times in accordance with the criteria

developed by OWNER (that will be amended from time to time), and as required to address any terms in the lease.

3.2.1.1 The condition of the property shall also be maintained so that it complies with any governmental or insurance requirement, the requirements of any restrictive covenants, security instruments and declarations, and financing documents, and similar requirements affecting the Property.

3.2.2 Describe how identified violations will be promptly remedied. Indicate what efforts will be taken to complete preventive, seasonal and planned maintenance tasks, which includes, but is not limited to: unit interior, common areas, grounds, building systems, playground equipment, community gardens, etc.

### 3.3 Site Inspections

3.3.1 Describe how daily inspections will be conducted, to ensure 100% of the units are reviewed in accordance to timeframe established by OWNER.

### 3.4 Work Order

3.4.1 Outline how assigned personnel will record, close and bill repairs supported by a work-order, within the time period established by OWNER. At a minimum, this should include, but not limited to: intake, assigning priorities/triaging, use of forms, assignment, completion, close-out, inspection and billing.

### 3.5 Annual Home Inspections

3.5.1 Describe the efforts that will be used to implement a comprehensive schedule that allows annual inspections to be conducted for each unit in accordance to HUDS' Uniform Physical Condition Standards (UPCS). Include a proposed schedule outlining what personnel will manage and implement the schedule to ensure 100% of the units will be inspected, within a 12-month period.

### 3.6 Cleaning & Preparing Vacant Units (Make-Ready)

3.6.1 Outline the efforts that will be used to prepare vacant units which includes, but is not limited to: pre-inspections/move-out inspection, general cleaning, repairing, replacing, pest control, final inspections, etc.

### 3.7 Inventory and Material Management

3.7.1 Describe how inventory will be secured, stockroom cleaning standards/organizations, inventory log, appliance control, tool/equipment control, tool storage, equipment repairs, etc.



### 3.8 Maintenance Contracts

3.8.1 Indicate what processes will be used to ensure general and small job contracts are procured correctly and timely, and that they comply with OWNER's policies and federal regulations.

3.8.1.1 The above shall include vendor registration, specifications, documents indicating comparison of quotes, executive contracts, quality inspections/controls of firms, etc.

### 3.9 Meter Reading Services

3.9.1 Indicate how assigned personnel will interact with a meter reading vendor.

### 3.10 Emergency / Prevention Plans

3.10.1 Provide plans for handling emergency situations, mold & moisture prevention, handling discovery of asbestos-containing materials, handling discovery of lead-containing materials on the property.

3.10.2 Provide an emergency plan with procedures that safeguards all persons (employees, residents & visitors) and property. The plan shall provide specific directives on: saving lives, securing the property, prevent emergencies, preparing/reacting for an emergency, evacuation, fire/safety drills, restoring the property after an emergency, etc.

## 4. **Reporting / Notices**

4.1 Describe how assigned personnel will be trained to ensure the validity of OWNER's electronic data and reports.

## 5. **Financial Management**

### 5.1 Taxes

5.1.1 Indicate how (at OWNER's expense), your Firm will pay all taxes and other governmental assessments on the Property.

### 5.2 Records and Reports

5.2.1 Provide a detailed plan how your Firm will account for, and report the operations of the Property in accordance with Generally Accepted Accounting Principles (GAAP) set for certified public accounting.

### 5.3 Budgets

5.3.1 Provide a plan to provide OWNER with a budget at least thirty (90) days prior to the end of each calendar year.

5.3.1.1 The above should also indicate how best efforts will be used to operate the Property in accordance with the Operating Budget and Capital Budget, both as to total cost and as to cost by accounting category.

### 5.4 Accounting Records

5.4.1 Describe what best efforts will be used to:

5.4.1.1 Maintain accurate books and records of all funds received and disbursed in connection with the management of the Property(ies); and,

5.4.1.2 Exercise control over accounting and financial transactions, so as to protect OWNER's assets from theft or fraudulent activity on the part of Firm's employees.

### 5.5 Monthly Reports

5.5.1 Describe how OWNER will be provided with requested reports on or before the tenth (10<sup>th</sup>) day of each month.

5.5.2 Provide a plan detailing how OWNER will be provided with the following reports to disclose, at the very least, all income (both received and accrued), expenses, and cash flow for the preceding month (accrual basis):

5.5.2.1 Summary operating statement and detail operating statement prepared in a format showing budget comparison and variance from same;

5.5.2.2 Statement of disbursements, itemizing each disbursement made during the monthly period by check number, amount and payee;

5.5.2.3 Summary schedule of aged accounts receivable itemizing all outstanding monies at the close of the monthly accounting period and listing all monies collected for the month;

5.5.2.4 Descriptive summary of the operation of the Property during the prior month, highlighting all significant occurrences and anticipated problems and explanations for all material variances and expense items (actual compared to budget) for current month and year to date comparisons;

5.5.2.5 Report disclosing any contract or agreement with, or the payment of money to, any entity affiliated with or related to Firm in any way;

5.5.2.6 Summary and detail balance sheet;

5.5.2.7 Accounts payable report; and

5.5.2.8 Bank account reconciliation.

## 5.6 Quarterly Report

5.6.1 Provide a detailed plan how OWNER will be provided with requested reports on or before the tenth (10<sup>th</sup>) day, after the end of each calendar quarter.

## 5.7 Annual Report

5.7.1 Provide a detailed plan how OWNER will be provided with requested reports within thirty (30) days after the end of each calendar year.

## 6. Establishment of Operating Account

6.1 Provide a detailed plan how OWNER will maintain all rent and other revenues and funds which are received by the Firm for OWNER, in its capacity as the exclusive manager of the Property(ies).

## 7. Disbursements by Firm

7.1 Provide a detailed plan how the Firm will pay disbursements from the Operating Account (and not from the Firms' own funds), and how Operating Accounts will be maintained to avoid any comingling of funds.

7.1.1 Describe what actions will be taken (if funds in the Operating Account are insufficient) to promptly notify OWNER of cash deficits, and what efforts will be taken to promptly correct said deficit(s).

## 8. Procurements

8.1 Describe how Firm will initiate and handle each and every procurement, per HHA and HUD procurement procedures, that it undertakes at the property level, including the process for communicating the information to OWNER, the role of a Procurement Liaison, and storage of procurement files at the site.

8.2 Provide a detailed plan outlining the approach, that follows HHA and HUD procurement procedures, that will be used to execute and renew services, in

OWNER's name and as agent for OWNER. These services include, but are not limited to: (a) contracts for electricity, gas, telephone, water, cleaning, pest control, landscaping, office supplies, garbage and trash removal and other services in the ordinary course of business, and (b) purchase all supplies and equipment which are necessary to maintain and operate the Property in a first-class condition.

## 9. **Capital Projects**

### 9.1 Supervision of OWNER Construction

9.1.1 Provide a plan indicating how OWNER will be assisted in honoring its obligations to make alterations, improvements, or capital improvements to the Property.

9.1.1.1 The above shall include how the firm shall respond to written request from OWNER regarding: (i) coordinate, when appropriate, with OWNER, tenants, architects, engineers and firms, to prepare and finalize construction plans, (ii) hire, in OWNER's name, appropriate and acceptable contracts, which contracts shall be in OWNER's name (iii) make periodic, random project inspections, (iv) approve the construction schedule, (v) approve the quality of workmanship, (vi) approve firm requisitions for progress payments, (vii) approve and monitor all change orders, and (viii) represent OWNER during the final inspection of the completed job.

### 9.2 Capital Planning

9.2.1 Indicate how assigned personnel will conduct annual capital assessments that identifies major improvements and/or upgrades at the site.

## 10. **Risk Management**

### 10.1 Notice of Claims

10.1.1 Indicate how OWNER, and its' insurance carrier will be promptly notified and informed of any actual or potential liability, personal injury, or property damage occurring to, or on the Property which becomes known to the Firm.

## 11. **Bonding**

11.1 Indicate how your Firm will maintain bonds or employee dishonesty insurance in an amount reasonably acceptable to OWNER, for all of the firm's employees who handle, or are responsible for OWNER's money or property.

12. **Notices**

12.1 Indicate how OWNER will be notified of any fire, accident, or other casualty, condemnation proceedings, rezoning or other governmental order, lawsuit or threatened lawsuit involving the property, violations relative to the leasing, use, repair and maintenance of the Property under any governmental law, ordinance, rule or regulation, and of any material defects in the Property, promptly after any such matters are discovered by the firm and/or are brought to Manager's attention.

13. **Resident Relations / Community Safety**

13.1 Tenant Complaints

13.1.1 Indicate how your Firm will respond promptly to complaints and requests from tenants of the Property within three (3) business days, and how OWNER will be provided with this information.

14. **Tenant Satisfaction Surveys**

14.1 Describe the approach that will be used to measure, annually and/or as requested by OWNER, residents' satisfaction with their units, curb-appeal, community safety, interaction with personnel, resident programs, etc.

15. **Community Newsletter**

15.1 Indicate how monthly newsletters will be distributed to promote open and continuous communication between management, residents, and OWNER.

16. **Resident Council Funds**

16.1 Describe how assigned personnel will collaborate with OWNER and the Resident Council to ensure funding is collected/disbursed, in a timely manner.

17. **Resident Program/Services**

17.1 Outline the type of events that will be held and the targeted months.

18. **Supportive Services**

18.1 Provide a plan outlining the provision of on-site supportive services.

19. **Community Meetings**

19.1 Indicate how your Firm will establish monthly community meetings with residents, law enforcement, other HHA departments, and Resident Council.

19.2 Outline the efforts of open/consistent communication with assigned officers; coordinate the recording of reports received from law enforcement, and lease enforcement for violators engaged in criminal activity, etc.

**20. Safety Prevention/Intervention**

20.1 Outline the efforts that will be used to offer preventive and intervention strategies to deter criminal activity. At a minimum, this should include, but not limited: efforts related to the usage of lighting, signage, access control, security equipment, environmental design/landscaping, resident programs/meetings, etc.

**21. Transitional Plan**

21.1 Provide a transitional plan indicating their strategy for assuming full managerial control of site(s) that is new to their portfolio. At a minimum, this should include, but not limited to: personnel, tenant files, keys, insurance, inventory, transferring of utility/contractual obligations, signage, etc.

## Exhibit C

### Evaluation Criteria

Item No.	Criteria	Maximum Points
1	Firm's experience directly managing multi-family communities within the state of Texas:	
	- Management of communities with all public housing units	10
	- Management of mixed-income communities, <u>including</u> public housing units	10
	- Management of mixed-income communities, <u>excluding</u> public housing units	5
2	Soundness of firm's approach to provide key management functions:	
	- Property Management	15
	- Financial Accounting (cost-control experience, reporting, etc.)	15
	- Physical (Maintenance, Quality Controls, etc.)	10
	- Capital Funds	5
3	Demonstrated competence applying regulatory and compliance standards for public housing (HUD) and tax credit (TDHCA)	10
4	Experience managing communities comprised of 400+ units	5
5	Management Fee	5
6	M/WBE Participation	5
7	Section 3 Participation	5
<b>Total Points</b>		<b>100</b>

## **BELLERIVE**

**7225 Bellerive  
Houston, Texas 77036  
713-789-5000**



Bellerive is a senior adult apartment complex located in southwest Houston. This secure development is geared to the well-being of our aging population. The property has been equipped with special features such as nurse call systems, access gate entry, automatic entry doors and security cameras, to address the unique needs of residents. Bellerive's proximity to shopping, recreational and medical facilities add to its myriad offerings of comfort and convenience.

### **ESTABLISHED**

1975; Renovated in 2008

### **TOTAL UNITS**

210

### **BEDROOM MIX**

200 one-bedroom units 10  
two-bedroom units



## CUNEY HOMES

3260 Truxillo  
Houston TX 77004  
Phone: (713) 748-4973



Cuney Homes is a legendary landmark, in Houston's historic Third Ward community. Situated directly across from Texas Southern University (TSU). Cuney Homes was the first development opened by the Housing Authority in 1943.

The complex has received extensive rehabilitation; in 1997, the Housing Authority's design and modernization work won a National Award of Merit from the National Association of Housing & Redevelopment Officials.

Cuney Homes is surrounded by rich African American culture surrounded by a newly renovated community. The property is centrally located near many of Houston's main attractions such as the Museum District, Downtown Houston, Emancipation Park, and Hermann Park.

### **Established**

1939

### **Total Units**

553

### **Bedroom Mix**

222 one-bedroom units

232 two-bedroom units

81 three-bedroom units

18 four-bedroom units

**EWING**  
1815 Ewing  
Houston, Texas 77004  
713-522-9844



Ewing is a quaint apartment development nestled at the southwestern end of downtown with an impressive backdrop of Houston's skyline. Conveniently located near the Texas Medical Center, Ewing offers proximity to Houston's largest employment source. The property is centrally located near many of Houston's main attractions such as the Museum District, Downtown Houston, Emancipation Park, and Hermann Park.

In addition to residential units, the site includes a multi-purpose room and laundry room.

**ESTABLISHED**

1979; Modernized in 1995

**TOTAL UNITS 40**

Exhibit

**BEDROOM MIX**

23 one-bedroom units

17 two-bedroom units

# IRVINTON VILLAGE

2901 Fulton

Houston, Texas 77009

713-224-1948



Located just north of downtown Houston, Irvinton Village is one of the first properties acquired by the Housing Authority. The apartment complex features a renovated multi-purpose building, that's used to host meetings, events, and scheduled activities. The development, which includes a storefront police substation, is also adjacent to a park and part of a culturally diverse neighborhood with businesses that offer a broad range of activities, restaurants and exciting community experiences for residents.

In addition to residential units, the site includes a multi-purpose building, playgrounds and laundry rooms.

## **ESTABLISHED**

1941; Modernized in 2008

## **TOTAL UNITS**

318

## **BEDROOM MIX**

108 one-bedroom units 127

two-bedroom units

46 three-bedroom units 37

four-bedroom units

**KELLY VILLAGE**  
**3118 Green**  
**Houston, Texas 77020**  
**713-228-2461**



Kelly Village, one of the agency's earliest properties, is located in Houston's historic Fifth Ward community. Since opening, the development has undergone several renovations; a modernization effort was launched in 1997. The complex is close to downtown and midtown Houston. Resident have accessibility to a wide variety of community resources and employment opportunity with local businesses, as well as a wide range of entertainment options. In addition to residential units, the site includes a multi-purpose building, outdoor basketball court, a soccer field and laundry rooms.

**ESTABLISHED**

1939; Modernized in 2005

**TOTAL UNITS**

270

**BEDROOM MIX**

88 one-bedroom units

129 two-bedroom units

88 three-bedroom units

28 four-bedroom units

# KENNEDY PLACE

3100 Gillespie  
Houston, Texas 77020  
713-225-5929



Kennedy Place, located in Houston's historic Fifth Ward, was recently redeveloped and offers a variety of unit enhancement, including individual garages. Originally occupied in 1982, the former 60-unit development was demolished in December 2009 and was completely rebuilt in January 2011.

The revitalized Kennedy Place is close to downtown and midtown Houston. Resident have accessibility to a wide variety of community resources and employment opportunity with local businesses, as well as a wide range of entertainment.

In addition to residential units, the site includes a multi-purpose room, amphitheater, playgrounds and laundry room.

## **ESTABLISHED**

2011

## **TOTAL UNITS**

108

## **BEDROOM MIX**

20 one-bedroom units

58 two-bedroom units

26 three-bedroom units

4 four-bedroom units

## LONG DRIVE TOWNHOMES

6767 Long Dr.  
Houston TX 77087  
Phone: (713) 643-8232



Long Drive Townhomes, a Section 8 Moderate Rehabilitation site, on Houston's southeast side, is a small community close to attractions such as the NRG, Houston Metro Rail, NRG, and the Texas Medical Center. The complex is ideally located next to a park shaded by large oak trees and accented with a duck pond which was recently enhanced by the City of Houston to provide additional recreational and open space.

### **Established**

1981; Modernized in 1997

### **Total Units**

100

### **Bedroom Mix**

26 one-bedroom units

40 two-bedroom units

30 three-bedroom units

4 four-bedroom units

# LYERLY

75 Lyerly  
Houston, Texas 77022  
713-694-6681



Lyerly is a five-story mid-rise building in north Houston dedicated to the special needs of senior residents. With a tranquil environment and a variety of activities offered, this community provides safe, quality housing in a surrounding ideally suited yet enjoyable for residents.

Lyerly's unique features include a nurse call system, access gate entry and other provisions designed to ensure maximum comfort and safety. A shaded courtyard and a park with benches add to the complex's serene atmosphere. Activities range from health and wellness presentations to community outings for residents.

## **ESTABLISHED**

1975; Renovated in 1995

## **TOTAL UNITS**

199

## **BEDROOM MIX**

199 one-bedroom units 1  
two-bedroom unit

**Exhibit E**

**Property Management Fee**

List the proposed monthly Management Fee for the below Development:

<b>Public Housing Development</b>	<b>Units</b>	<b>Management Fee</b>
Cuney Homes	553	\$ _____
Ewing	40	\$ _____

\_\_\_\_\_  
**Name of Proposer / Offeror / Firm / Individual / Corporation**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Business Address**

\_\_\_\_\_  
**Phone Number / Fax Number**

\_\_\_\_\_  
**E-mail Address**

\_\_\_\_\_  
**Submittal Date**



## Property Management Fee

List the proposed monthly Management Fee for the below Development:

Public Housing Development	Units	Management Fee
Irvinton Village	318	\$ _____

\_\_\_\_\_  
**Name of Proposer / Offeror / Firm / Individual / Corporation**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Business Address**

\_\_\_\_\_  
**Phone Number / Fax Number**

\_\_\_\_\_  
**E-mail Address**

\_\_\_\_\_  
**Submittal Date**

## Property Management Fee

List the proposed monthly Management Fee for the below Development:

Public Housing Development	Units	Management Fee
Lyerly	199	\$ _____

\_\_\_\_\_  
**Name of Proposer / Offeror / Firm / Individual / Corporation**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Business Address**

\_\_\_\_\_  
**Phone Number / Fax Number**

\_\_\_\_\_  
**E-mail Address**

\_\_\_\_\_  
**Submittal Date**

## Property Management Fee

List the proposed monthly Management Fee for the below Development:

Public Housing Development	Units	Management Fee
Bellerive	210	\$ _____

\_\_\_\_\_  
**Name of Proposer / Offeror / Firm / Individual / Corporation**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Business Address**

\_\_\_\_\_  
**Phone Number / Fax Number**

\_\_\_\_\_  
**E-mail Address**

\_\_\_\_\_  
**Submittal Date**

## Property Management Fee

List the proposed monthly Management Fee for the below Development:

Public Housing Development	Units	Management Fee
Kelly Village	270	\$ _____

\_\_\_\_\_  
**Name of Proposer / Offeror / Firm / Individual / Corporation**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Business Address**

\_\_\_\_\_  
**Phone Number / Fax Number**

\_\_\_\_\_  
**E-mail Address**

\_\_\_\_\_  
**Submittal Date**

## Property Management Fee

List the proposed monthly Management Fee for the below Development:

Public Housing Development	Units	Management Fee
Kennedy Place	108	\$ _____

---

**Name of Proposer / Offeror / Firm / Individual / Corporation**

---

**Signature**

---

**Printed Name**

---

**Title**

---

**Business Address**

---

**Phone Number / Fax Number**

---

**E-mail Address**

---

**Submittal Date**

## Property Management Fee

List the proposed monthly Management Fee for the below Development:

Public Housing Development	Units	Management Fee
Long Drive Townhomes	100	\$ _____

---

**Name of Proposer / Offeror / Firm / Individual / Corporation**

---

**Signature**

---

**Printed Name**

---

**Title**

---

**Business Address**

---

**Phone Number / Fax Number**

---

**E-mail Address**

---

**Submittal Date**

# MANAGEMENT AGREEMENT

FOR

[PROPERTY NAME]

BY AND BETWEEN  
HOUSTON HOUSING AUTHORITY

AND

[PROPERTY MANAGEMENT FIRM]

*Contract # 23-05*



**HOUSTON**  
HOUSING AUTHORITY

**Transforming Lives & Communities**

MANAGEMENT AGREEMENT

Contract # 23-05

[PROPERTY NAME]

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**THIS MANAGEMENT AGREEMENT** (this “Agreement”) is made and entered into by and between **HOUSTON HOUSING AUTHORITY (“Owner<sup>1</sup>”)**, having its principal place of business at 2640 Fountain View, Houston, Texas 77057, and **[PROPERTY MANAGEMENT NAME]** (hereinafter referred to interchangeably as “**PROPERTY MANAGEMENT FIRM**” or “**PMF**”), a corporation existing under the laws of the State of Texas, having its principal place of business at \_\_\_\_\_ (collectively **Owner** and **PMF** shall be called the “Parties” or individually as a “Party”).

**RECITALS**

WHEREAS, **Owner** owns apartment communities acquired by HHA located within Harris County, Texas public housing, and with a variety of amenities consisting of: community buildings/rooms, playgrounds, green spaces, community gardens, fitness centers, child care/educational centers, laundry rooms, vending areas, and resource centers (the “**Development**”);

WHEREAS, the **Owner** is a public body corporate and politic, duly organized and validly existing and in good standing under the laws of the State of Texas and currently engaged in such business as defined in the Housing Authorities Law in the Local Government Code of the State of Texas, including the services of providing decent, safe and sanitary housing to the residents of its facilities, low-income families, the elderly, the handicapped and the disabled; and

---

<sup>1</sup> Owner shall mean all entities, affiliates, or instrumentalities owned by the Houston Housing Authority presently or in the future.



WHEREAS Property Management Firm is engaged in the business of managing, operating, maintaining and securing residential dwelling units and related facilities and is competent in said business; and

**NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AND DEPENDENT COVENANTS AND AGREEMENTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:**

### **ARTICLE I. DEFINITIONS**

“**Agreement**” means this Management Agreement, all exhibits thereto including, the Management Agreement Rider (which is attached as **Exhibit A** and incorporated herein), the Certifications and Representations (which are attached as **Exhibit B** and incorporated herein), the **PMF’s** Proposed Minority and Women’s Business Enterprise (“M/WBE”) Participation Plan (which is attached as **Exhibit C** and incorporated herein), **PMF’s** Section 3 Utilization & Commitment Plan (which is attached as **Exhibit D** and incorporated herein), Form HUD 5370-C, Section 1, “General Conditions for Non-Construction Contracts”, as promulgated by the Department of Housing and Urban Development (“HUD”) (which is attached as **Exhibit E** and incorporated herein) and the Request for Proposal (“RFP”) No. 17-20, which is attached as **Exhibit F** and incorporated herein).

“**Lease**” shall mean the form of agreement (approved by **Owner**) between **Owner** and a Resident under the terms of which the Resident is entitled to enjoy possession of a unit in the **Development**, as may be modified by any lease addendum described in the Rider attached hereto and incorporated herein.

“**Non-Housing Income**” shall mean all amounts actually collected by **PMF**, other than Rent, including, all income and charges from normal operations of the **Development** other than Rent, including, if applicable, parking fees, forfeited security deposits, pet deposits where pets are permitted, excessive utilities, and other fees and deposits, and other miscellaneous income.

“**Property Management Firm**” shall mean all owners, officers, executives, regional staff, on-site employees, and off-site employees, and all owners, officers, executives, regional staff, on site employees, and off-site employees for all subsidiaries, entities, or instrumentalities of the Property Management Firm.

“**Rent**” shall mean that monthly amount which a Resident is obligated to pay **Owner** pursuant to the terms of a Lease, other than Non-Housing Income.

“**Resident**” shall mean a person occupying a unit in the **Development** pursuant to a Lease.

## ARTICLE II. ENGAGEMENT AND ACCEPTANCE

**Owner** hereby engages **PMF** to act, in its capacity as an independent contractor, on behalf of **Owner** for the purpose of managing, maintaining, operating and securing the Development for the account of **Owner**, and **PMF** hereby accepts such engagement, under and subject to the terms and conditions herein contained. The Parties also understand and acknowledge that **Owner** is the Houston Housing Authority for all purposes of this Agreement.

**PMF** shall execute and return the Property Management Agreement, and commence its obligations under this Agreement and the Property Management Agreement within the specified time listed in the written notice from **Owner**. Should **PMF** fail to fully commence its obligations after notice of assignment from **Owner**, this Agreement may be terminated by **Owner**.

## ARTICLE III. COMPLIANCE AND REGULATION

**3.1. Resolving Conflicts and Ambiguities.** In connection with **PMF's** entry into this Agreement, the Parties incorporate herein **PMF's** Certifications and Representations submitted in response to RFP No. 17-20 (attached as **Exhibit B**). The Parties further agree to be bound by the terms and conditions set forth in Form HUD 5370-C, Section 1, "General Conditions for Non-Construction Contracts", as promulgated by the Department of Housing and Urban Development ("HUD"), and attached as **Exhibit E**. In the event that this Agreement, RFP No. 17-20 as amended, and any other exhibits conflict with Form 5370-C, Section 1, the provisions of Form 5370-C, Section 1 shall prevail. Otherwise, in the event of a conflict between this Agreement and RFP No. 17-20 as amended, the terms and conditions contained within this Agreement shall prevail.

## ARTICLE IV. TERM

**4.1. Generally.** This Agreement shall become effective upon execution by **Owner**. The Parties agree to operate under the terms of this Agreement as of \_\_\_\_\_. **PMF** shall sign the Agreement first, and after signing, shall deliver the signed Agreement, along with any and all required proofs of insurance, fidelity or other bonds, to **Owner** for signature. This Agreement shall continue in effect for one (1) year, unless terminated sooner, and may be extended, at the sole discretion of **Owner**, for up to two (2) additional years in one (1) year increments.

**4.2. Termination for Convenience.** Notwithstanding Section 4.1, this Agreement and the obligations of the parties hereunder may be terminated in the following manner: Either **Owner** or **PMF** may terminate this Agreement in whole or in part whenever such party determines that such termination is in the best interest of such party. Any such termination shall be effective thirty (30) days after delivery to the non-terminating party of a notice of termination

specifying the extent to which the performance of the work under this Agreement is terminated and the date upon which such termination becomes effective.

If the performance of the work is terminated, either in whole or in part, pursuant to this Section 4.2, **Owner** shall be liable to **PMF** only for reasonable and proper costs through the date of termination resulting directly from such termination upon receipt by **Owner** of a properly presented claim setting out in detail (a) the total cost of the work performed to date of termination less the total amount of payments made hereunder to **PMF**; (b) the cost of settling and paying claims under contracts and materials orders for work performed and materials and supplies delivered to the Development, payment for which has not been made by **Owner** to **PMF** hereunder or by **PMF** to the contractor or supplier; (c) the cost of preserving and protecting the work already performed until **Owner** takes possession thereof or assumes responsibility therefor; and (d) all owed but unpaid management fees and reimbursement for employee compensation and benefits for onsite employees.

**4.3. Termination for Cause.** Notwithstanding Section 4.2, this Agreement and the obligations of the parties hereunder may be terminated by **Owner** for cause, which for purposes of this provision shall be deemed to mean negligence, fraud, malfeasance, bad faith or any breach of this Agreement or any inability of **PMF** to perform **PMF**'s duties hereunder, including, but not limited to, an inability or failure of **PMF** to comply with any requirements applicable to **Owner** or an inability or failure of **PMF** to comply with any performance standard/obligation or other covenant of this Agreement or any exhibit thereto.

In the event this Agreement is terminated pursuant to this Section 4.3, such termination shall be deemed for all purposes of the parties' rights hereunder to be a contractual right of the terminating party as a direct result of the default by the other party of such other party's obligations hereunder. A termination for cause will require written notice of thirty (30) days, or less, if the health or safety of Residents is impaired or threatened by a notice period of thirty (30) days.

**4.4. Duties Upon Termination.** Should any termination occur, it is understood that the respective rights and obligations of the parties shall continue to be governed by this Agreement until the effective date of termination, which effective date shall be designated in the notice of termination. **PMF** shall cease its operations on the Development effective as of such date of termination (with duties to be performed by **PMF** up to such date of termination).

**4.5. Effect of Termination.** Upon termination of this Agreement for any reason, **PMF** shall:

- (a) have no further authority to represent **Owner** or take or cause to be taken any action on **Owner**'s behalf or to disburse any of **Owner**'s funds;
- (b) promptly deliver to **Owner** all books, keys, records and documents, including, but not limited to, all original Leases, service contracts, unpaid invoices and accounting records, etc., maintained by **PMF** pursuant to this Agreement and do all that is reasonably necessary to facilitate the orderly transition of management of the Development;
- (c) no later than ten (10) days following such termination, render to **Owner** an accounting of all funds of **Owner** held by **PMF** relating to the Development and reflecting the balance of income and expenses on the

Development as of the date of termination (all of which funds **PMF** shall promptly cause to be delivered to **Owner**);

- (d) **PMF** shall submit said funds to **Owner** in the method and timeframe determined by **Owner**, and
- (e) perform all reporting and accounting functions (including but not limited to: payment of all outstanding expenses as of the date of termination, and proof thereof, resolution of all accounts receivable) hereunder for the period from the date of the last report or accounting to the effective date of termination.

## **ARTICLE V. PMF'S RESPONSIBILITIES**

**5.1. Management.** **PMF** shall have full responsibility for the management, operation, maintenance and securing of the Development during the term of this Agreement. **PMF** shall perform these duties in an efficient and economical manner by applying customary and acceptable management techniques appropriate for the nature of the Development. **PMF** shall not have a vendor, contract, or business relationship with any entity or individual related to site-based staff or **PMF's** employees by marriage or blood relationship. **PMF** shall act in a fiduciary capacity with respect to the proper protection of and accounting for **Owner's** assets. In this capacity, **PMF** shall deal at arm's length with all third parties and **PMF** shall serve **Owner's** interests at all times. In fulfilling these responsibilities, and without intending to limit the generality of Section 10.2, **PMF** will be subject to **Owner's** direction in accordance with the terms and provisions of this Agreement, but in no event shall **PMF** have any obligation to follow any direction of **Owner** which is contrary to law, which would expose **PMF** to liability not otherwise undertaken by **PMF** pursuant to this Agreement, or which is contrary to the terms and conditions of this Agreement.

**5.2. Employees.** **PMF** shall have either in its employ or under contract at all times a sufficient number of capable personnel<sup>2</sup> to enable it to properly manage, operate, maintain and secure the Development. All matters pertaining to the employment of such employees and the retention of contract labor are the responsibility of **PMF**. On the basis of wage rates to be set forth in the annual operating budget and approved by **Owner**, **PMF**, on behalf of **Owner**, shall screen, hire, pay, supervise and discharge all Managerial and non-Managerial personnel for the Development. Compensation for the services of such employees (as evidenced by certified

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<sup>2</sup>PMF shall: Establish a professional development training plan for each employee to ensure they acquire and retain adequate knowledge and/or certifications to perform key job tasks. All of the **PMF's** permanent employees should be required to complete a minimum of 12-hours of continuing education, annually. Training can be acquired in a variety of mediums (in-person, online, etc.) that is relevant to specific job descriptions. At a minimum, sample education should include: Rent Calculations, Certified Occupancy Specialist, Dealing with Difficult Customers, HUD's Enterprise Income Verification, Uniform Physical Condition Inspections, Managing Maintenance, Public Housing Management, Rental Assistance Demonstration, Filing Evictions, Disaster Preparedness/Planning, Blue Star, etc. Property Management Firm is expected to conduct a formal onboarding process for each new employee including permanent and temporary employees. Onboarding shall introduce Manager's employees to the Houston Housing Authority policy and procedures, performance expectations and Information Technology requirements to gain access into various electronic systems. Onboarding shall be conducted for all new hires and quarterly ongoing professional development and training for all existing employees.

payrolls) and employee benefits regularly provided to **PMF**'s employees in general shall be considered an operating expense of the Development. **PMF** shall hire in **PMF**'s name, and have physically present at the Development, all Managerial and non-Managerial personnel necessary for the full and efficient performance of its duties under this Agreement, including, the physical presence of responsible personnel at such times as may reasonably be requested by **Owner**.

Failure of **PMF** to assign individuals designated in this Agreement to perform the services required hereunder, if any, shall be a default under this Agreement which, without intending to limit any of **Owner**'s rights or remedies by reason thereof, will entitle **Owner** in addition to such rights and remedies to withhold funds otherwise due **PMF** hereunder. All personnel of **PMF** shall be employees of **PMF** and shall not be employees, subcontractors or agents of **Owner**, and shall be hired, paid, supervised and discharged solely by **PMF**. **PMF** shall be responsible and liable for all state and federal payroll and social security taxes, and any and all payments and reimbursements to **PMF**'s employees. **PMF** hereby indemnifies and holds harmless **Owner** in every respect against and from any liability connected with the foregoing.

**PMF** acknowledges that, in regard to **PMF**'s employees involved in the alteration or repair of any improvement at the Development, as well as services rendered under this Agreement to the Development, Davis-Bacon, HUD approved, and prevailing wage rates apply.

**PMF** shall require all employees to acquire all certifications relevant to their position and job responsibilities within ninety (90) days of the date of hire or the effective date of the position. Acceptable Property Management Certifications include, but not limited to, Certified Apartment Management Certification (CAM) and/or Public Housing Management Certification (PHM).

During Owner/Development Business Hours, PMF employees shall be required to wear apparel, which clearly states the name of the PMF for the purpose of Residents being able to properly identify individuals as employees of the said PMF.

**5.2.1. Minority Business Participation: Non-Discrimination.** **PMF** understands that **Owner**'s policy is to ensure that Minority Business Enterprises ("MBEs") and Women-Owned Business Enterprises participate, to the extent feasible, in all contracts administered directly or indirectly by **Owner** in accordance with Executive Orders 11625 and 12138. **Owner** strongly encourages business associations, such as joint ventures, between minority and non-minority firms. To achieve greater participation of MBEs and WBEs in contracts administered directly or indirectly by **Owner**. **PMF** hereby agrees to utilize **PMF**'s good faith, best efforts to implement the meet the HHA goal of minimum of thirty percent (30%) of contract dollars being expended on one or more M/WBEs. **Owner** has agreed that **PMF** shall, and **PMF** hereby agrees to utilize **PMF**'s good faith, best efforts to implement the following steps in order to assure that whenever appropriate, subcontracts are awarded to MBEs and WBEs:

- (a) placing qualified MBEs and WBEs and small businesses on solicitation lists;
- (b) dividing the total requirements, when economically and legally feasible, into smaller tasks or quantities to permit maximum participation by MBEs and WBEs and small businesses; and
- (c) using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S.

Department of Commerce, any local minority assistance organizations and various state and local government small business agencies.

**5.2.2.** Section 3 of HUD Act of 1968. Pursuant to Section 3 of the HUD Act of 1968, 12 U.S.C. 1701u, and its implementing regulations, 24 CFR Part 135 (“**Section 3**”), if additional job training, employment and other economic opportunities are generated by a contract administered directly or indirectly by **Owner**, then, to the greatest extent feasible, these opportunities must be directed to low-income and very low-income persons. In addition to employment and training opportunities, Section 3 also seeks to benefit businesses owned by public housing residents and other low-income persons. **Owner** has agreed that **PMF** shall, and **PMF** hereby agrees to comply with **Owner’s** Section 3 policy, where applicable.

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.

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.

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.

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.

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.

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.

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).

**5.2.3. Removal of Employees** **Owner** may request **PMF** to remove immediately from all duties or assignments under this Contract any employee of the **PMF** found unfit to perform their duties due to one or more of the following reasons, which include but not limited to:

- Negligence, being disorderly, using offensive or abusive language, quarrelling, or fighting, stealing, vandalizing property; and
- Engaging in immoral or inappropriate behavior (e.g., being intoxicated, or under the influence of mind-altering substances), or pursuing criminal activity (e.g., selling, consuming, possessing or being under the influence of illegal substances).

**5.3. Compliance with Laws.** **PMF** shall not violate any applicable federal, state, municipal or other governmental or quasi-governmental law, ordinance, rule or regulation in the performance of its duties pursuant to this Agreement. Immediately upon **PMF** becoming aware of any such violation, **PMF** shall notify **Owner** of any violation of any federal, state, or municipal or other governmental or quasi-governmental law, ordinance, rule or regulation applicable to the structure or condition of the Development or the use made thereof by any Resident.

In addition to MBE requirements, WBE requirements and the requirements of Section 3, and without intending to limit the generality of the foregoing provisions of this Section 5.3, **PMF** shall, in the course of the performance of its duties hereunder, comply with all applicable laws and requirements, including the following, as the same may be amended from time to time:

- (a) The Fair Housing Act, 42 U.S.C. 3601-19, and regulations issued thereunder; 24 CFR Part 100; Executive Order 11063 (Equal Opportunity Housing) and regulations issued thereunder; 24 CFR Part 107; the Fair Housing Poster Regulations; 24 CFR Part 110 and advertising guidelines, 24 CFR Part 109.
- (b) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and regulations issued thereunder relating to non-discrimination in federally assisted housing, 24 CFR Part 1.
- (c) Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and regulations issued thereunder, 24 CFR Part 146.
- (d) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and regulations issued thereunder, 24 CFR Part 8; the Americans with

Disabilities Act, 42 U.S.C. 12181-89, and regulations issued thereunder, 28 CFR Part 36.

- (e) **PMF** agrees to comply with HUD Form 52158-U.S. Department of Housing and Urban Development Maintenance Wage Rate Decision (“the Decision”). **PMF** further agrees that its employment positions for employees or contractors providing routine maintenance under this Agreement will be classified by the work classifications listed in the Decision. The Decision may be updated periodically as dictated by HUD, which will not require an amendment to this Agreement.
- (f) HUD’s procurement requirements found in 24 CFR 85.36 and 2 CFR 200, as well as the procurement policies of **Owner**. **PMF** further agrees to designate one person as the Procurement Liaison who shall be responsible for coordinating and communicating all procurements initiated or handled at the **Development to Owner’s** asset manager for the **Development**, so that each procurement may be reviewed and approved by **Owner**.
- (g) HUD’s requirements for working with faith-based organizations found at 24 CFR parts 5, 92, 570, 574, 576, 578, and 1003, as amended.

**5.4. Compliance with other agreements.** **PMF** shall not in performance of its services hereunder violate the terms of any Lease, deed of trust or other security instrument binding on or affecting the Development or any portion thereof, provided **PMF** is aware or should reasonably be aware of the existence of any such document. **PMF** shall not be required to make any payment or incur any liability, other than those expressly required under the terms of this Agreement, in order to comply with any such terms or conditions of any such instruments.

**5.5. General Reporting.** **PMF** agrees that all financial statements, billings and reports rendered to **Owner**, as provided for in this Agreement, will properly reflect the facts about all activities and transactions handled for the account of **Owner**, which data may be relied upon as being complete and accurate in any further recording and reporting made by **Owner** for whatever purpose. **PMF** agrees to notify **Owner** promptly upon discovery of any instance where **PMF** has reason to believe that this data is no longer accurate and complete. For purposes hereof, the fiscal year shall be from January 1 to December 31.

**5.5.1. Specific Reporting.** In connection with the foregoing provisions of this Section 5.5, **PMF** shall, at a minimum, perform the following tasks:

- (a) **PMF** shall establish and maintain a comprehensive system of records, books, inventory and accounts in a manner satisfactory to **Owner** and HUD, and otherwise as required by Generally Accepted Accounting Principles (“GAAP”) and Governmental Accounting Standards Board Statement 34 (“GASB 34”). All records, books, and accounts shall be subject to examination at reasonable hours by any authorized representative of **Owner** and HUD or the Government Accounting Office.
- (b) **PMF** shall furnish such information as may be requested by **Owner** or HUD, respectively, from time to time with respect to the financial,



physical or operational condition of the Development, including, without limitation, a monthly financial operating report which shall be furnished by **PMF** to **Owner**. Financial operating reports shall be in a format acceptable to the **Owner**.

- (c) **PMF** shall prepare, execute, and file all forms, reports, and returns required by law in connection with the employment of personnel, including, unemployment insurance, workers' compensation insurance, disability benefits, social security, and other similar insurance benefits or taxes now in effect or hereafter imposed.
- (d) **PMF** shall prepare and submit a monthly report to **Owner** detailing compliance with Davis Bacon requirements, HUD Mandated Wages Requirements, and Section 3 of HUD Act of 1968 requirements.

**5.5.2. Compilation of Specialized Data.** Again, without limiting the generality of the foregoing provisions of this Section 5.5, **PMF** shall familiarize itself with the requirements (as they relate to **PMF's** leasing and management duties hereunder), and shall use its best efforts to comply with such requirements. To the extent **PMF** is unable to do so, **PMF** shall promptly notify **Owner** of such fact and the reasons therefor. The following provisions shall apply:

- (a) **PMF** shall require each prospective Resident to certify, on the lease application or Lease the amount of such Resident's annual family income, family size and any other information required. **PMF** shall obtain from each prospective Resident's employer (if any) a verification of the prospective Resident's income, and shall perform such other verifications of such Resident's nonemployment income as are necessary or appropriate in order to provide necessary certification and verification of the amount of such Resident's annual family income, family size, and other information. **PMF** shall require Residents to certify in writing as to such matters on an annual basis, prior to such time as **Owner** needs the information for reporting purposes to third parties, including, but not limited to, if applicable, HUD, **Owner**, or any other governmental or quasi-governmental authorities having any jurisdiction thereover.
- (b) **PMF** shall semi-annually, or upon request by the **Owner**, furnish **Owner** with a written schedule of maximum rents for the units for **Owner's** approval. Without **Owner's** express prior written consent, **PMF** shall not enter into any Lease on behalf of **Owner** at a rental amount exceeding the applicable maximum rent or below the applicable minimum rents.
- (c) **PMF** shall maintain and preserve all written records of Resident family income and size, and any other information necessary to comply with **Owner's** or HUD requirements or otherwise requested by **Owner** throughout the term of this Agreement, and shall deliver all such records to **Owner** upon the termination or expiration of this Agreement.
- (d) If requested by **Owner**, **PMF** shall prepare reports of low- income leasing and occupancy and other matters, including, but not limited to, **PMF's** obligations hereunder and the operation of the Development in

form suitable for submission by **Owner** to all governmental and quasi-governmental authorities to which **Owner** must or desires to report.

**5.5.3. Monthly Reports** **PMF** shall render to **Owner**, prepared as of the end of each calendar month during the term of this Agreement for the purpose of showing, in such detail as may be requested by **Owner**, net income from the Development and all collections, disbursements, delinquencies, uncollectible accounts, vacancies and other matters related to the management, operation, maintenance and securing of the Development, including, such comparisons of actual income and expense figures to budget amounts as requested by **Owner**. As additional support to the monthly financial statements, **PMF** shall, at **Owner's** request, provide copies of the following: (a) all bank statements, bank deposit slips and bank reconciliations; (b) detailed cash receipts and disbursement records; (c) general ledger listing; (d) all invoices for capital expenditures and non-recurring items; (e) summaries of adjusting journal entries; and/or (f) copies of paid bills.

**5.5.4 Other Reports.** **Manager** shall also require their employees to record and track pertinent data to complete a variety of management and operation reports for the **Owner**. Below is a grid of required reports with the expected completion dates:

Type of Reports	Public Housing	Due Dates
<b>Weekly Management Reports</b>	<ul style="list-style-type: none"> <li>Weekly Report (Template Provided by <b>Owner</b>)</li> </ul>	COB Every Friday
<b>Monthly Owner's Report</b>	<ul style="list-style-type: none"> <li>Financial Statements*</li> <li>Davis-Bacon</li> <li>Section 3 Compliance Report</li> <li>NRA Submittal</li> <li>Reasonable Accommodations/VAWA</li> <li>Transfer List</li> <li>Waitlist</li> </ul>	5th calendar day of the subsequent month
<b>Quarterly Reports</b>	None	15th calendar day following the Quarter
<b>Annual Budgets</b>	<ul style="list-style-type: none"> <li>Proposed Annual Budgets</li> </ul>	1st business day of September
<b>Annual Reports &amp; Documents</b>	<ul style="list-style-type: none"> <li>Renewal Copies of Insurance</li> </ul>	4/30 of the following reporting year
<b>On-going Reports</b>	<ul style="list-style-type: none"> <li>Professional Development Records</li> <li>UCPS Inspections</li> <li>EIV/PIC Binder</li> </ul>	5th day after <b>Owner's</b> request

	<ul style="list-style-type: none"> <li>• Towing/Parking Permits</li> <li>• Appliance Inventory</li> <li>• Resident Newsletters</li> <li>• Occupancy &amp; Other Permits</li> <li>• Property Inspections Logs</li> <li>• Exterior Lighting</li> <li>• Community Services</li> <li>• Resident Compliant/Incident Forms</li> <li>• Resident Satisfaction Survey</li> </ul>	
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**Owner** shall reserve the right to make reasonable requests for additional reports to be made available by **PMF** within a reasonable timeframe.

**5.6. Budgets.**

**5.6.1. Proposed Budget.** **PMF** shall prepare and submit to **Owner** a proposed annual operating budget (“Operating Budget”) and a proposed annual capital budget (“Capital Budget”) for the promotion, operation, repair, securing and maintenance of the Development for the forthcoming calendar year. Within thirty (30) days of execution of this Agreement, **PMF** shall deliver to **Owner** the proposed Operating Budget and Capital Budget (for the remainder of the calendar year) within which this Agreement commences and for the following year. Subsequent proposed annual budgets shall be delivered to **Owner** at least ninety (90) days prior to the beginning of each calendar year. The proposed Operating Budget and the proposed Capital Budget shall be in a form acceptable to **Owner** and set forth an itemized statement of the anticipated receipts and disbursements for the Development for the oncoming calendar year.

**5.6.2. Owner’s Review.** **Owner** will consider the proposed budgets and will attempt to consult with **PMF** within fifteen (15) days of receipt of the proposed budget. **Owner** will attempt to approve the Operating Budget within fifteen (15) days from receipt of HUD approval of **Owner’s** portfolio subsidy calculation. **PMF** shall not proceed with implementation of a proposed Operating Budget or Capital Budget without **Owner’s** prior written approval. For each calendar year after the calendar year within which this Agreement commences, and during the term of this Agreement, **PMF** shall have the right to operate the Development on the basis of the Approved Operating Budget for the prior calendar year to the extent that **Owner** does not approve **PMF’s** proposed Operating Budget for such upcoming calendar year on or before December 31 of the prior year.

**5.6.3. Approved Budget.** Upon approval of the Operating Budget, **PMF** shall have the authority to expend funds in accordance therewith without any further approval by or notice to **Owner**, subject to and in accordance with all other provisions of this Agreement.

**5.6.4. Cost-Effective Approach.** **PMF** agrees to exercise due diligence and to employ all reasonable efforts to ensure that the actual costs of maintaining, operating, insuring and securing the Development shall not exceed the Approved Operating Budget (in total or in any operating category). **PMF** shall secure **Owner’s** prior written approval for any expenditure that

will result in an overrun of the Approved Operating Budget; provided however, **PMF** shall, each month, have the discretion to incur expenditures up to five percent (5%) in excess of the budgeted amount in any single operating expense category, so long as the aggregate of such expenditures do not result in an overrun of the entire Approved Operating Budget on a monthly basis.

**5.6.5. Notification of Prior Expenditure.** During the calendar year, **PMF** agrees to inform **Owner** and receive approval of any major increases (more than five percent (5%) in excess of the budgeted amount in any single operating expense category) in costs and expenses that were not foreseen during the budget preparation period, and thus, were not reflected in either approved budget.

**5.7. Capital Expenditures.** The Approved Capital Budget shall not constitute an authorization for **PMF** to expend any money for capital items. Should capital funds be awarded to the property, the **Owner** will administer the funds. **PMF** shall recommend the purchase of capital items when **PMF** believes such purchase to be necessary or desirable. **Owner** may, at its sole discretion, contract with **PMF** to carry out certain work or make certain expenditures of Capital funds. Upon receipt of **Owner's** written approval, **PMF** may implement recommended capital fund items and the cost of implementation shall be paid from the Operating Account. **Owner** may, if desired, arrange to purchase and install capital items itself, but in no event shall **PMF** proceed with implementation of any capital fund item without **Owner's** prior written consent.

**5.7.1. Capital Expenditure Requests.** **PMF** must submit by September 1<sup>st</sup> of each calendar year **Owner**, requests for any capital funding (covering a two (2) year time period) needed for each development. **PMF** is responsible for informing the **Owner** of any capital needs, using the methods and forms prescribed by the **Owner**. The information submitted will include a description of work needed, the quantity and location of work and the estimated cost.

**5.8. Collection of Rents and Other Income.** **PMF** shall exercise due diligence to collect all Rents, all Non-Housing Income due, and any other charges which may become due at any time from any Resident, Commercial Tenants, or from others for services provided in connection with or for the use of the Development or any portion thereof. **PMF** shall collect and identify any income due **Owner** for miscellaneous services provided. All monies so collected shall be deposited in the Operating Account (as defined hereafter, see Section 8.5) for the Development or, if **Owner** so instructs, in another account specified by **Owner**. **PMF** shall terminate any Lease, lock out a Resident, or institute suit for Rent or for the possession of any Unit within the Development only in accordance with guidelines established by **Owner**. Expenses actually incurred by **PMF** in bringing such approved action will be paid from the Operating Account. **PMF** shall not write off any income items without prior written approval of **Owner**. **PMF** shall furnish **Owner** with an itemized list of all Residents with delinquent accounts immediately following the tenth (10th) day of each month. Notwithstanding anything to the contrary which may be construed under the foregoing, **PMF** shall not accept cash payments for any Rents or other charges due from Residents or otherwise transact business with cash.

**5.9. Continuing Service Contracts.** **PMF** shall enter into continuing service contracts for the cleaning and maintenance of the Development and for other necessary services in accordance with HHA, HUD, federal, state, and local procurement rules and regulations. Each service contract shall include a provision for cancellation thereof upon not more than thirty (30)

days written notice. Any contract requiring more than thirty (30) day notice of cancellation will not be entered into without **Owner's** prior written approval. All service contracts shall require that all contractors provide evidence of sufficient insurance in the following minimum amounts:

- (a) Worker's Compensation - Statutory Amount;
- (b) Employer's Liability - \$100,000 minimum;
- (c) Comprehensive General Liability (minimum):
  - (i). \$1,000,000 bodily injury per person,  
\$1,000,000 per occurrence  
\$1,000,000 property damage  
or
  - (ii). \$1,000,000 combined single limit.

**PMF** shall obtain **Owner's** written approval prior to entering into any contract that waives these minimum limits. All service contracts shall be entered into by the **PMF** on behalf of the Development and the funds necessary to pay for the services so obtained shall be paid from the Operating Account.

All such continuing service contracts, as well as any other contracts entered into by **PMF** with third-party contractors, shall only be entered into by **PMF** if the selection of such contractor, supplier or materialman and the contract resulting from such selection comply in all respects with the procurement policy applicable to **Owner** and the procurement/bidding requirements of the Management Plan. Nothing in this Agreement or the **Owner** approved Management and Maintenance Plan is intended to preclude, nor shall be interpreted as precluding, **Owner** from being a selected contractor, supplier or materialman for the Development pursuant to any such procurement/bidding requirements. **PMF** shall be responsible for entering the relevant contractual information from the aforementioned contracts into the **Owner**-approved contract administration database. **Owner** will provide training(s), as needed or requested, to **PMF's** personnel at the Development who will be expected to utilize said database.

**5.10. Repairs.** **PMF** shall supervise ordinary and extraordinary repairs; however, no single expenditure for any repair shall, subject to subsection 5.6.4, exceed \$2,000.00 without the prior written approval of **Owner**. In emergencies, **PMF** may make such repairs as are necessary and shall notify **Owner** thereof within 8 hours. Actual and reasonable expenses for materials and labor for all such purposes will be paid for from the Operating Account. **All invoices for repairs shall be paid no later than the timeframe/date specified in said invoice.** Prior agreement by **Owner** of the Development's Annual Operating Budget shall not negate **Owner's** right of approval with respect to individual expenditures exceeding the above limitations. Should physical modification to structures or facilities be required that have costs that exceed funding available in **PMF's** budget, **Owner** shall include the cost of such modification in the first available capital program budget.

**5.10.1. Maintenance.** **PMF** shall cause the buildings, appurtenances, equipment and grounds of the Development to be maintained and repaired at all times according to standards set by **Owner**, the **Owner**-approved Maintenance Plan, or any applicable insurance or other

governmental or quasi-governmental standards, subject to the constraints of the Approved Operating Budget. **Subject to this provision, Owner reserves the right to procure third-party vendor(s) to provide repair services to the Development units as needed, provided that if Owner procures said third-party repair vendor(s), PMF shall be required to utilize such vendor(s) for any needed repairs to the units.**

**5.10.2. Preventive Maintenance.** PMF shall develop a preventive maintenance schedule, including, but not limited to, periodic inspections of the units; residency commencement and termination check lists; inventory control; common area maintenance; equipment maintenance; exterior maintenance; and painting, decorating, and replacement timetables as necessary. **Owner** reserves the right to review all such preventive maintenance measures and to direct that additional steps be instituted where deemed necessary.

**5.10.3. Inspection of Units and Common Areas.** PMF shall make no less than bi-annual housekeeping inspections and annual Uniform Physical Standard Inspection of all Units, or more often if reasonably necessary, and report its findings in writing to **Owner**, as well as prepare a scheduled plan for correction of all deficiencies noted therein.

**5.11. Taxes.** PMF shall, if so requested, obtain and verify bills for real estate and personal property taxes, or payments in lieu thereof, improvements, assessments, and other like charges which are or may become liens against the Development and recommend payment or appeal as its best judgment may dictate. If requested by **Owner**, PMF shall retain an independent tax consultant, but any costs attributable thereto shall be at **Owner's** expense.

**5.12. Leasing.** The form of Lease used to permit Residents to occupy any Unit within the Development shall be subject to the prior written approval of **Owner**. The PMF shall only utilize the approved lease format as provided by the **Owner**. The lease shall be in its most current edition.

**5.12.1. Relationship with Residents.** PMF shall maintain businesslike relations with all Residents, whose service requests shall be received and considered in systematic fashion, and PMF shall use PMF's best efforts to promptly perform and discharge (for and at the expense of **Owner**, subject to the Approved Operating Budget limits) all obligations and duties imposed upon **Owner** under all Leases of Units within the Development, as such obligations and duties are to be performed under such leases. All complaints of a serious and/or material nature relating to **Owner's** obligations under the Leases shall be reported to **Owner** no later than twenty-four (24) hours after knowledge and, after thorough investigation, be reported to **Owner** in writing by PMF, with appropriate recommendations and details. PMF shall maintain a log of all service requests and complaints which shall include the date and time the request or complaint is received by PMF, the name and address of the party filing the request or the complaint, a detailed description of the request or complaint being filed, and the actions taken by PMF in response thereto. PMF shall immediately notify **Owner** of all emergencies.

**5.12.2. Resident Satisfaction Surveys.** PMF shall conduct resident satisfaction surveys on a bi-annual basis to gauge and assess resident satisfaction and any possible customer service trends of concern. Surveys may be conducted by a third party, the cost of which may be deducted from the annual budget. PMF must adhere to **Owner's** instruction on how the survey data must be collected and reported; PMF must promptly report survey results to **Owner**. If resident surveys show an overall unsatisfactory level

of customer service, **PMF** agrees to immediately implement a corrective action plan to address the low satisfaction score, up to an including the replacement of problem staff. **Owner** reserves its right to terminate this Agreement if repeated surveys indicate an overall unsatisfactory customer service and **PMF** has failed to rectify the matter; such termination shall be for cause

**5.13. Specialized Services of PMF.**

**5.13.1. Policies of Owner.** **PMF** agrees to keep itself informed on the policies of **Owner** and, notwithstanding the authority given to **PMF** in this Agreement, to confer fully and freely with **Owner** in the performance of its duties hereunder. **Owner** hereby designates Houston Housing Authority's Vice President of Public Housing Operations (or his approved designee) as its principal representative with respect to this Agreement, provided that **Owner** may change its principal representative at any time by written notice to **PMF**.

**5.13.2. Meetings with Owner.** **PMF** agrees to cause an officer of **PMF** to attend meetings with **Owner** at any time or times requested by **Owner**.

**5.13.3. Structure and warranties for modernization units.** **PMF** shall obtain from **Owner** a complete set of as-built plans and specifications and copies of all guaranties and warranties pertinent to construction, fixtures, and equipment. With the aid of this information and inspection by competent personnel, **PMF** shall thoroughly familiarize itself with the character, location, construction, layout, plan, and operation of the Development and especially with the electrical, heating, plumbing, air conditioning, and ventilating systems, and all other mechanical equipment. All such as-built plans and specifications as updated shall remain the property of **Owner**.

- (a) Inspection of modernization project(s). **PMF** and **Owner** shall participate in the final inspection to certify the readiness of the units for occupancy and shall (i) inform the architect, the contractor, and issuers of guaranties or warranties of all defects in material and workmanship discovered within the construction warranty period; (ii) monitor the action taken by the contractor to correct the defects; and (iii) participate in any formal inspection held for the purpose of identifying construction defects.
- (b) Inspection Prior to Occupancy. Prior to occupancy of any Unit by a Resident, **PMF** shall inspect the unit and determine it to be decent, safe and sanitary.
- (c) Bonding. **PMF** shall furnish fidelity bond insurance covering itself and its employees in accordance with the requirements of Section 9.3.
- (d) Notice of Authority. **PMF** shall place in a conspicuous place at the Development a notice that **PMF** is authorized to manage the Development.

**5.13.4. Review of Operations.** **PMF** shall permit **Owner** to conduct on-site evaluations of the performance of any or all management services which **PMF** has agreed to provide in this Agreement. An authorized representative of **PMF** shall be available during on-site evaluations. If **Owner** prepares a written report based on such evaluations, **Owner** shall deliver such report to **PMF** who shall correct any deficiencies noted in such report within thirty (30) days of the receipt of the report from **Owner**. If such correction cannot be made within

thirty (30) days, **PMF** shall provide **Owner** with a written reason for such noncompliance and a plan for the correction of all deficiencies noted, including a timetable of proposed actions. **PMF** shall then correct the deficiencies within the timetable established by **Owner**. Copies of all such reports, written reasons for noncompliance and plans shall be forwarded to **Owner**.

**5.13.5. Payments and Expenses.** From the funds collected and deposited by **PMF** hereunder, **PMF**, on behalf of **Owner**, shall cause such funds to be disbursed regularly and punctually in accordance herewith in the order and priority set forth below:

- (a) all amounts, if any, required to be paid to **Owner** pursuant to any loan documents; and then
- (b) all of the insurance premium payments, taxes, if any, and payments in lieu of taxes; and then
- (c) all operating expenses of the Development, including administrative, maintenance, and utility expenses as set forth in the current **Owner**-approved operating budget (other than any operating expenses of the Development for which **Owner** has notified **PMF** in writing that **Owner** will make payment); and then
- (d) all amounts required to be established monthly and annually in any Development reserve fund account required to be established by **Owner** in regard to the Development, based on the Approved Operating Budget.

**PMF** and **Owner** agree to:

- (e) assure that all expenses are reasonable in amount and necessary to the operation of the Development; and
- (f) exert their best efforts to maximize income and to assure that all necessary measures are taken to collect receivables due and owing the Development, including Rents, within the established standards of the industry; to take advantage of discounts, rebates or commissions (including any sales tax relief granted by the State government) received with respect to purchases, service contracts and other transactions made on behalf of the Development; and
- (g) obtain contracts, materials, supplies and services, including the preparation of its financial reports, as applicable, on terms most advantageous to the Development and at costs not in excess of amounts ordinarily paid for such services rendered or supplies and materials furnished; and
- (h) solicit written cost estimates as necessary to comply with this Agreement and document the reasons for accepting other than the lowest most responsive bid, and in this latter regard, **PMF** and **Owner** will maintain copies of such documentation available for inspection during normal business hours.
- (i) **PMF** shall submit invoices for reimbursement or payment of **Owner**-approved or emergency expenses within thirty (30) days of the date the expense was incurred and previously authorized by **Owner**.



**5.14. Agreement to Operate and Maintain.**

- (a) **PMF** acknowledges and agrees that **Owner** is required to maintain and operate the Development units in compliance with the all applicable laws and regulations, and to ensure that rents, charges, and Operating Subsidies generated from the Development are used solely for eligible, reasonable and necessary expenditures related to the Development in accordance with the Operating Budget;
- (b) **PMF** is responsible to **Owner** for the management of the Development in accordance with the foregoing (and, in the event that **PMF** believes that conflict or potential conflict exists among the foregoing authorities, **PMF** shall consult with **Owner** regarding the resolution thereof in accordance with this Agreement).

**5.15. Grievance Procedure.** **Owner** will establish a resident grievance procedure available to the occupants of all of the dwelling units in the Development. Such procedures shall provide for informal discussion and settlement of grievances by the **PMFs** and before a hearing officer appointed in accordance with procedures prescribed in the Housing Authority Annual Plan, to the extent applicable to the Housing Program the subject of this agreement.

**5.16. Resident Selection and Admission.** **PMF** will offer for rent, and will rent the dwelling units in the Development, in accordance with **Owner's** policies and procedures, which will incorporate the following **PMF** responsibilities:

- (a) Applicant screening procedures will include correct placement on the waiting list, verification of credit references, and criminal background checks for all applicants, in accordance with procedures set by **Owner**. The **PMF** will also comply with **Owner's** procedures for informal review of application rejections for all applicants, including procedures for review of eligibility or suitability determinations or denial of preferences for applicants to the Development units, consisting of a written statement of the reason(s) for rejection and an opportunity to meet with a person, or persons, designated by the Agent other than the person who made the initial determination.
- (b) **PMF** will prepare all leases and parking permits and will execute the same in its name, identified thereon as property manager for the **Owner**. Leases executed with respect to the Development units will be on forms approved by the **Owner**.

**ARTICLE VI. COMPENSATION OF PROPERTY MANAGEMENT FIRM**

**6.1. Base Fee.** The sole compensation paid to **PMF** for all services performed under this Agreement shall be monthly payments equal to the product of \_\_\_\_\_ to include affordable compliance monitoring fees, multiplied by the total number of units in the Development that were occupied during any part of the preceding month. For purposes hereof, compensation for any partial month shall be calculated on a prorated basis. Payments will be made progressively within thirty (30) days of receipt of proper monthly invoices.

**6.2. Performance Standards.** **Owner** has established standards that **PMF** must meet in order to receive full compensation under the Agreement. **PMF** shall maintain records to measure the performance standards set forth in this section on a monthly basis. **PMF** must report the monthly performance measures by the first (1<sup>st</sup>) business day of each subsequent month. Each monthly report shall be in a format designated by **Owner** and shall report both a monthly performance measure as well as a cumulative quarterly and year-to-date average for each performance area described in this section. Each performance area and the level of performance required by the **Owner** are set forth below:

- (a) Tenant Account Receivables (“TAR”). Receivables to be included in the TAR performance measure include rent and charges in addition to rent, which shall mean that monthly amount that a Resident is obligated to pay **Owner** pursuant to the terms of a lease. **Owner’s** monthly delinquency standard for TARs is a maximum of one and four-one hundredths percent (1.4%). Delinquent receivables shall include all money due and not received on or before the fifth (5<sup>th</sup>) day of the month. The TAR goal will be measured prior to any tenant monetary adjustment and/or quarterly write-offs.
- (b) Vacancy. A vacancy is defined as a unit which becomes unoccupied during any part of the month and remains unoccupied at the end of the month. **Owner’s** monthly vacancy rate standard is a maximum of two percent (2%).
- (c) Vacancy Turnaround. **Owner’s** monthly standard for vacancy turnaround time is fifteen (15) days. This includes make ready and lease-up time and begins either the day after the lease ends or the date **Owner** obtains legal possession, whichever is earlier, and ends when a new lease is signed. The monthly report must include the following for each vacated unit:
  - (i) The date the unit was vacated.
  - (ii) The name of the former Resident who vacated.
  - (iii) The unit number of the vacated unit.
  - (iv) The size of the vacated unit.
  - (v) Reason tenant vacated unit.
  - (vi) The date maintenance began to “make ready” the unit.
  - (vii) The date maintenance completed all “make ready” repairs.
  - (viii) The date the unit was re-leased.
- (d) Development Hours. **PMF** shall maintain the same business hours and holidays at the Development as those of **Owner**. The **Owner’s** standard business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. Central Standard Time (C.S.T). This provision does not preclude **PMF** from operating in excess of the hours of **Owner** as needed for operation of the Development, as authorized in advance by **Owner**.

- (e) Work Orders.
  - (i) Emergency. Emergency work orders are those that address an immediate threat to life, health, safety to property or to the resident or are related to fire safety. **Owner's** standard for completion of an emergency work order is for all orders to be completed or abated within twenty-four (24) hours.
  - (ii) Non-Emergency. Non-emergency work orders are those that address conditions that do not pose an immediate threat to life, health, safety to property or to the resident or are not related to fire safety. **Owner's** standard for the completion of non-emergency work orders is within four (4) days.
- (f) Inspections. **Owner's** annual standard for inspections is for all Uniform Physical Condition Standards (UPCS) inspections to be conducted on or before September 30 of each year. Accordingly, **PMF** must conduct a sufficient number of inspections each month beginning January 1 of each respective year in order to complete the inspections before September 30 of said year. Further, all units must be inspected within twelve (12) months of the previous inspection. All UPCS inspections include the site, building exteriors, common areas, units, and systems. **PMF** shall submit to **Owner**, no later than December 31<sup>st</sup> of each year, a proposed inspection schedule designed to meet the foregoing criteria.
- (g) Recertifications. **Owner's** annual standard for recertifications is that each tenant household must be recertified no more than ninety (90) days and no less than thirty (30) days prior to the tenant's lease expiration unless the tenant is in eviction proceedings in which case no lease renewal may be executed until the legal eviction matter is resolved. Tenants may be contacted regarding recertification no earlier than one hundred twenty (120) days prior to the tenant household's lease expiration. The monthly report must indicate for each tenant whose lease expired during the preceding month the date the tenant was contacted regarding recertification and the date recertification was completed or that legal eviction is pending.
- (h) Lease Agreements. New lease agreements shall be executed within thirty (30) calendar days of prior lease expiration or legal possession of the property, whichever is earlier.
- (i) HUD Physical Inspection – REAC Score. **PMF** shall perform physical maintenance and repairs at the Development sufficient to ensure that the Development receives a minimum score of eighty-five (85) at multi-family sites, and ninety-five (95) at elderly housing sites, for the annual inspection conducted by the Real Estate Assessment Center ("REAC") of the U.S. Department of Housing and Urban Development.

**6.3. Reimbursements.** Reasonable amounts incurred for the Development's front-line, day-to-day management tasks and activities that are documented in a manner satisfactory to

**Owner** and otherwise consistent with the Approved Operating Budget may be charged as operating expenses, regardless of whether the staff work out of **PMF's** office or at a site with **Owner's** consent. Front-Line day-to-day management tasks and activities include, but are not limited to:

- (a) taking applications, screening possible Residents, leasing units, handling Residents' certification forms, and monitoring contributions of Residents;
- (b) costs of maintaining the Development, including maintenance staff,
- (c) accounting for income and expenses, including costs allowed by **Owner** for prorated shares of any centralized computer accounting system owned and maintained by **PMF**;
- (d) expenses of audits and compilation reports;
- (e) delinquency notices and evictions;
- (f) envelopes, postage, checks, copying and similar expenses, as long as they are reasonable and necessary;
- (g) travel expenses by front-line staff in discharging front-line responsibilities, e.g., making bank deposits, visiting the Development;
- (h) training approved by **Owner** to improve a front-line employee's management performance at the Development; and
- (i) preparation of normal Development reports required by **Owner**.

If **PMF's** central office staff performs front-line activities for several of **PMF's** projects, staff salaries and fringe benefits of persons performing their services must be prorated among the various projects served in proportion to actual usage, as approved by **Owner**.

In addition, if there are particular management costs not described in the Approved Operating Budget and this Section 6.3 which **Owner** approves in writing for payment out of the Operating Account, **PMF** may be reimbursed for these costs, but only with specific prior written consent of **Owner**.

**6.4. Management Costs Charged Against Fee.** The following costs shall be paid for by **PMF** itself and not charged to the Operating Account:

- (a) recruiting, hiring, supervising and monitoring of regional and executive staff of **PMF**;
- (b) training Development personnel except as provided in subsection 6.3(h) above;
- (c) establishment and supervision of systems to keep Development books, records and accounts;
- (d) **PMF's** overhead expenses, such as office space and supplies and equipment;
- (e) bookkeeping expenses of **PMF's** company; and
- (f) the fidelity bond required hereunder.

## ARTICLE VII. MONETARY PENALTIES FOR NON-PERFORMANCE

7.1. Owner's Right to Withhold. **Owner** reserves the right to withhold a percentage of management fees owed to **PMF** for **PMF's** failure to meet key performance indicators for two consecutive quarters. **PMF's** failure to adhere to the performance criteria as set out in **Exhibit A** and/or **PMF's** failure to adhere to the management responsibilities and performance standards set out herein shall also result in **Owner's** withholding of management fees.

7.2. Non-Performance. Incidents of non-performance may result in a withholding of not less than five percent (**5%**) of management fees. Such incidents include but are not limited to:

- Failure to use HHA approved documents and leases.
- Failure to timely submit files for legal action (e.g. for-cause eviction documentation).
- Submission of incomplete files for legal action (i.e. missing documents, missing signatures, etc.).
- Failure to timely file non-payment evictions.
- Failure to maintain the waiting list per HHA and HUD guidelines.
- Failure to receive a minimum annual inspection score of eighty-five percent (85%) at multi-family sites and ninety-five percent (95%) at elderly sites.
- Failure of the on-site Property Manager and the Regional Supervisor to complete monthly property inspections.
- Failure to properly procure contractors.
- Failure to complete annual resident recertification pursuant to HUD guidelines.
- Failure to properly utilize Section 3 and M/WBE certified vendors.
- Execution of new lease agreements with tenants who do not have a current approved criminal background check on file.
- Repeated and/or serious incidents
- **Failure to timely pay third-party vendor invoices.**

7.3. Failure to Notify. **PMF's** failure to timely notify **Owner** of any incident or occurrence requiring notification under this Agreement, including unsafe property conditions, will result in immediate withholding of no less than five percent (**5%**) of the management fee owed to **PMF**, and shall increase in percentage of withholding commensurate with the severity of the un-reported incident or occurrence.

7.4. Withholdings are Cumulative. Management fee withholdings for non-performance shall be calculated cumulatively per occurrence, per property.

## **ARTICLE VIII. ACCOUNTING AND RECORDKEEPING**

**8.1. Monthly Visits and Remittances.** **PMF** shall maintain or cause to be maintained at **PMF's** office at the Development a separate set of books of accounts reflecting operations of the Development. **Owner** shall have the right at all reasonable times during normal business hours to audit, examine, and make copies of, or extracts from, the books of accounts maintained by **PMF** pursuant to this Agreement. Such right may be exercised through any agent or employee designated by **Owner** and shall extend no longer than seven (7) years from the date of termination of this Agreement. **Owner** shall bear all expenses in connection with such examination and shall give **PMF** at least five (5) days advance notice of **Owner's** desire to make such examination. **PMF** shall provide for an officer or representative of its company to make on-site visits to the Development at least once during each calendar month during the term of this Agreement, and the reports referred to in Section 5.5 shall provide a narrative of **PMF's** observations from such on-site, monthly visits.

**8.2. Receipts and Records.** **PMF** shall at all times during the term of this Agreement maintain a record of payment for all expenses of the Development paid by **PMF** for the benefit of **Owner**. **PMF** shall maintain, at **PMF's** office, at the Development, or at such other place as may be mutually agreed upon by **PMF** and **Owner**, copies of bills, all Leases and other occupancy documents and correspondence, contracts, records of rental income and charges, and warranties with respect to the Development and its operation. **PMF** shall at all times keep and maintain full, true, and accurate books of account fully reflecting all of the monies received and paid out by **PMF** under this Agreement.

**8.3. Property of Owner.** The records, reports, books of account and other documents and materials relating to the management, operation, maintenance and securing of the Development shall be the property of **Owner**. Upon the termination of this Agreement, or at any other time upon the request of **Owner**, **PMF** shall, after making copies of such portions thereof as **PMF** shall deem pertinent to its continuing operations or liability, turn the same over to **Owner**.

**8.4. Security Deposit Account.** **PMF** shall promptly deliver to **Owner** all Resident security deposits, or if **Owner** so instructs, **PMF** shall deliver all Resident security deposits to an account specified by **Owner**. Such security deposits shall be maintained by **Owner** in accordance with applicable law. **PMF** shall maintain detailed records of all security deposits, and such records shall be open for inspection by **Owner** and **Owner's** employees and appointees.

**8.5. Operating Account.** **PMF** shall establish a general account (the "Operating Account") in a banking institution designated from time to time by **Owner** in **PMF's** name for the benefit of **Owner** and to which **PMF** shall deposit all Rents and other funds collected from the operations of the Development. **PMF** shall promptly deposit in the Operating Account all revenues associated with the Development when the same are collected. The funds of the Operating Account may be used to pay the normal and reasonable expenses incidental to the operation and maintenance of the Development pursuant to the Approved Operating Budget and

as requested by **Owner**, including without limitation, payment of **PMF**'s compensation provided for hereunder. The Operating Account is to be established solely for the Development. **PMF** shall not commingle any of its funds with the funds of **Owner**, **PMF**, or any other person. All funds deposited in the Operating Account are the property of **Owner** held in trust for **Owner** by **PMF**. The Operating Account shall be subject to the control of both **PMF** and **Owner**, either of whom may draw thereon. **PMF** shall also maintain a petty cash fund in an amount not to exceed \$500.00 (from money in the Operating Account) and make payments therefrom in a manner consistent with the usual course of dealing with such funds in the property management business. Such petty cash fund shall be subject to the same rules and restrictions set forth above as are applicable to the Operating Account. Each month **PMF** shall submit to **Owner** a copy of the monthly statement of the Operating Account. **Owner** shall deposit in the Operating Account on or about the first (1<sup>st</sup>) day of each month funds sufficient to provide for **PMF**'s payment of the expenses described in the Approved Operating Budget and anticipated for that month as stated in the Approved Operating Budget and as further provided for and approved in accordance with the terms of this Agreement. At the end of each fiscal year, **PMF** shall make distributions to **Owner** of any funds held by **PMF** for **Owner**, provided that **PMF** may reserve funds reasonably required to operate the Development. Nevertheless, **PMF** shall maintain no less than \$1,000.00 at all times in the Operating Account. Any and all real estate taxes, or payments in lieu thereof, due with regard to the Development shall be paid by **PMF** from the Operating Account. If **Owner** so instructs, **PMF** shall, instead of depositing Rents and other funds into the Operating Account, deposit Rents and other funds collected from the operations of the Development into another account specified by **Owner**.

**8.6. Disbursements from Operating Account.** Any amounts received in excess of the needs of the Development ("Excess Income") are required to be returned to **Owner**, provided, however, that **Owner** may direct **PMF** to retain such amounts in the Development Operating Account to reduce the need for operating subsidies for the Development in the following fiscal year.

## **ARTICLE IX. INSURANCE**

**9.1. Insurance by Property Management Firm.** Before commencing work, **PMF** shall furnish **Owner** with complete **and updated** copies of the relevant certificates of insurance and/or policy declarations of the relevant policies required herein showing that the following insurance is in force and will insure all operations under this Agreement: **PMF** shall secure and maintain with one or more insurance companies satisfactory to **Owner**, (a) Worker's Compensation insurance covering all employees of **PMF** in accordance with the laws of the State of Texas, and if other than the State of Texas, also the state under which laws **PMF** is organized; (b) Employer's Liability insurance with minimum limits of \$100,000.00 for any one accident; (c) Automobile Liability insurance with minimum bodily injury limits of not less than \$500,000.00 per person and \$1,000,000.00 per occurrence; and (d) Commercial General Liability ("CGL") insurance with a single limit for bodily injury of \$1,000,000.00 per occurrence and property damage limits of no less than \$1,000,000.00 per occurrence. The CGL insurance may have a combined aggregate of coverage amounting to no less than \$1,000,000.00. The CGL insurance shall protect **Owner** against claims of bodily injury or death, and include property damage to others. If the **PMF**

has a "claims made policy," then the policy must provide a "retroactive date" which must be on or before the execution date of the Agreement and the extended reporting period may not be less than five years following the completion date of the Agreement. **Owner** will be named as additional insured on the CGL policy, said policy shall be endorsed to be primary/noncontributory, and **PMF** shall furnish satisfactory evidence of the foregoing insurance to **Owner** as referenced by the proper policy endorsements and certificates of insurance. All of the aforementioned policies must be endorsed to contain a thirty (30) day notice of cancellation or non-renewal and waiver of subrogation in favor of **Owner**. **PMF** shall also maintain Umbrella Insurance in the amount of at least \$10,000,000 providing excess limits over Workers' Compensation, Employer's Liability Insurance, Automobile, and CGL Insurance. **Owner** must be named as an additional insured under this umbrella policy, this policy must be endorsed to be primary/noncontributory, and contain a waiver of subrogation in favor **Owner**. **PMF** is responsible for satisfying any and all deductibles or self-insured retentions that may apply to any of the policies referenced herein.

**9.2. Property Insurance by Property Management Firm.** In addition to 9.1 above, if requested by **Owner**, **PMF**, at **Owner's** expense, will maintain and keep in force those types of property insurance coverages deemed appropriate by **Owner**, insuring against physical damage to any of the Development in amounts at least sufficient to prevent **Owner** from becoming a co-insurer under such policies. Insurance obtained by **PMF** at **Owner's** expense, shall include, Commercial General Liability ("CGL") insurance in an amount not less than \$1,000,000.00 per occurrence insuring against loss, damage or injury to property or persons which might arise out of the occupancy, management, operation or maintenance of the Development. The CGL insurance shall also protect **Owner** against claims of bodily injury or death, and include property damage to others. **Owner**, any affiliated entities or subsidiaries, and the respective owners, officers, directors, agents, and employees of each will be named an additional insured on all such liability policies, the policy shall be endorsed to be primary and noncontributing, it shall include a waiver of subrogation in favor of **Owner**, and include a thirty (30) day notice of cancellation or non-renewal in favor of **Owner**. Before commencing work, **PMF** shall furnish **Owner** with complete copies of the relevant certificates of insurance and/or declarations and upon request by **Owner**, **PMF** will provide to **Owner** complete copies of the relevant policies required herein, the required endorsements, and copies of all respective policy declarations, showing that the aforementioned insurance is in force. **PMF** shall attempt to obtain the best possible rate under **PMF's** umbrella policy. In the event that any claim against **PMF** is made arising out of a fire or other casualty which is covered (or could have been covered) by the insurance required by this Article:

- (a) **PMF** shall notify **Owner** in writing within 24 hours after **PMF** receives notice of any claims of such loss, damage or injury, or as soon thereafter as possible;
- (b) **PMF** shall take no action (such as admission of liability) which might bar **Owner** from obtaining any protection afforded by any policy **Owner** may hold or which might prejudice **Owner** or its insurance carrier in the defense of a claim based on such loss, damage or injury;
- (c) **PMF** shall cooperate with **Owner** in the defense of any such claims, demands or proceedings; and



- (d) **PMF** agrees that **Owner** shall have the right, at **Owner's** option, to conduct the defense of any claim, demand or suit within limits prescribed by **Owner's** policy or policies of insurance, but **PMF** shall retain the right to defend and allow its insurers to defend under **PMF's** policies.

**9.3. Fidelity Bond.** Notwithstanding the above, **PMF** agrees to provide **Owner** with a fidelity bond or crime policy in an amount acceptable to **Owner** and in place on the Effective Date protecting **Owner** against losses incurred as a result of defalcations or similar acts on the part of **PMF's** employees or contractors.

**9.4. Other.** **PMF** shall furnish information available to **PMF** and requested by **Owner** for the purpose of placing such insurance coverage or making claims with respect to any loss thereunder. All insurance shall be carried with companies that are financially responsible and admitted to do business in the State of Texas. **PMF** shall not permit the insurance policies required for this Agreement to lapse during any period for which this Agreement is in effect. **PMF** is responsible for satisfying any and all deductibles or self-insured retentions that may apply to any of the policies referenced herein.

**9.5 Priority.** As between **Owner's** liability insurance and **PMF's** liability insurance, **Owner's** liability insurance shall be considered the primary coverage solely for purposes of claims regarding property construction, design defects, and services at the designated Property provided by **Owner**. All of the aforementioned policies must be endorsed to contain a thirty (30) day notice of cancellation or non-renewal and waiver of subrogation in favor of **Owner**.

## **ARTICLE X. MISCELLANEOUS PROVISIONS**

**10.1. Signature Authority of Owner over Operating Account.** Notwithstanding any of the other provisions contained in this Agreement, **Owner**, in addition to **PMF**, shall have full signature authority over the Operating Account, provided, however, that **Owner** shall be fully liable for and hereby agrees to, to the extent permitted by law, indemnify and hold **PMF** harmless with respect to any wrongful action taken by **Owner** pursuant to such signature authority.

**10.2. Independent Contractor.** **PMF** is an independent contractor and it is fully understood and agreed upon by the parties hereto that **PMF** shall have full power and authority to select the means, methods, and manner of performing the duties, obligations, and responsibilities assumed by **PMF** under this Agreement, subject to the terms and provisions hereof.

**10.3. Notices.** Any notice, demand, consent, approval, request, or other communication or document to be provided hereunder to a party hereto shall be (a) in writing, and (b) deemed to have been provided: (i) (1) forty-eight (48) hours after being sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested, (2) the next business day after having been deposited (in time for delivery by such service on such business day) with Federal Express or another national courier service, or (3) (if such party's receipt thereof is acknowledged in writing) upon having been sent by telefax or another means of immediate electronic communication, in each case to the address of such party set forth hereinbelow or to such other address in the United States of America as such party may designate from time to

time by notice to each party hereto; or (ii) (if such party's receipt thereof is acknowledged in writing) upon being given by hand or other actual delivery to such party. The parties' notice addresses are as follows:

If to **Owner**: Houston Housing Authority  
Attn: Vice President of Public Housing Operations  
2640 Fountain View, Suite 230  
Houston, Texas 77057  
Telephone: (713) 260-0733  
Fax: (713) 260-0786

If to **PMF**: TBD

**10.4. Assignment.** Subject to the restriction set forth in the next succeeding sentence, this Agreement shall be binding upon, and enforceable by, the parties' respective successors and assigns. This Agreement may not be assigned by **PMF** without the prior written consent of **Owner** (which consent may be withheld in **Owner's** sole discretion). It is understood, however, that **PMF** shall have the right to subcontract portions of its responsibility under this Agreement to others, but that **PMF** shall be fully and primarily responsible for fulfillment of all obligations in this Agreement.

**10.5. Governing Laws.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas.

**10.6. Representations.** **PMF** represents and warrants that it is fully qualified and licensed, to the extent required by law, to manage real estate and perform all obligations assumed by **PMF** hereunder.

**10.7. Waiver.** The waiver by either party of any breach of any term, covenant or condition contained in this Agreement shall not be deemed a waiver of a subsequent breach thereof.

**10.8. Headings.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

**10.9. Entire Agreement.** This Agreement, together with Exhibits A through D and any other documents referred to herein and made a part hereof, constitute the entire understanding between the parties with respect to the subject matter hereof. This Agreement shall be controlling in the event of any conflict between any documents made part of this Agreement and this Agreement. This Agreement may not be changed except by a writing executed by the parties hereto.

**10.10.** This Agreement shall automatically be amended as necessary to incorporate any provisions now or hereafter applicable should the housing program structure of the properties the subject of this Agreement change. Any such change or incorporation of legal and regulatory

requirements shall be deemed incorporated herein, irrespective of whether or not such provisions are expressly set forth in this Agreement or any written amendment hereto.

**10.11. Specific Limitations on Property Management Firm.** In addition to, and not in lieu of, any and all other limitations on the authority of **PMF**, **PMF** shall not be authorized without the express written prior consent of **Owner** to take any action that, if taken by or on behalf of **Owner**, might or would constitute a default under (a) any loan documents encumbering the Development, (b) any Lease of any unit, or (c) any other documents, instruments or agreements affecting or relating to the Development. Notwithstanding any provision of this Section, **PMF** shall not (a) convey or otherwise transfer or pledge or encumber any property or other asset of **Owner**; (b) pledge the credit of **Owner** except for purchases made in the ordinary course of business of operating the Development or otherwise contemplated pursuant to this Agreement; (c) borrow money or execute any promissory note or other obligation or mortgage deed, security agreement or other encumbrance in the name of or on behalf of **Owner**; (d) vary or change any portion of the insurance program required by **Owner**. Moreover, **PMF** shall not, without the express prior written consent of **Owner**, institute or defend lawsuits or other legal proceedings on behalf of **Owner** other than those pertaining to evictions for nonpayment of rent or collections. These limitations are in addition to all other restrictions on the authority of **PMF** set forth elsewhere in this Agreement.

**10.12. Indemnification of Owner. TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT AS SET OUT BELOW, THE PMF SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE OWNER, AND ALL OF THE OWNER'S OFFICERS, DIRECTORS, PARTNERS, AGENTS AND EMPLOYEES, AS WELL AS THE HOUSTON HOUSING AUTHORITY AND ITS, OFFICERS, AGENTS, EMPLOYEES, COMMISSIONERS, AND REPRESENTATIVES (THE "INDEMNITEE(S)"), FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES, ARISING OUT OF OR RESULTING FROM BODILY INJURY OR DEATH OF ANY PERSON, OR PROPERTY DAMAGE, INCLUDING LOSS OF USE OF PROPERTY, ARISING OR ALLEGED TO ARISE OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE CONTRACTOR'S PERFORMANCE HEREUNDER. SUCH INDEMNITY SHALL BE WITHOUT REGARD TO THE NEGLIGENCE (WHETHER ACTIVE, PASSIVE, SOLE, CONCURRENT OR GROSS), STRICT LIABILITY OR OTHER FAULT OF ANY INDEMNITEES. THE INDEMNIFICATION OBLIGATIONS UNDER THIS PARAGRAPH SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE CONTRACTOR SHALL PROCURE LIABILITY INSURANCE COVERING ITS OBLIGATIONS UNDER THIS PARAGRAPH.**

**NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, ANY LEGAL LIMITATIONS AFFECTING THE SCOPE OF PERMISSIBLE INDEMNITY SHALL BE READ INTO THESE CLAUSES SUCH THAT THE CLAUSE PROVIDES THE MAXIMUM INDEMNITY PURSUANT TO ITS TERMS WHILE STILL COMPLYING WITH THE LEGAL LIMITATIONS.**

**10.13. Time of Essence.** Time is of the essence in this Agreement and each and all of its provisions.

**10.14. Statutes, Laws, etc.** All references in this Agreement to any specific law, statute, code, regulation or ordinance shall be deemed to be a reference to such as amended, from time to time, and to any successor law, statute, code, regulation or ordinance.

**10.15. Severability.** In the event that any one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any of the other provisions herein and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**10.16. Disputes.** In the event of any controversy, claim, or dispute between **Owner** and **PMF** affecting or relating to the subject matter or the performance of this Agreement, the prevailing party will be entitled to recover from the non-prevailing party all the prevailing party's reasonable expenses, including but not limited to reasonable attorney's fees, expert witness fees, and court costs, pursuant to Texas Local Government Code Section 271.159, or as otherwise permitted by law. Notwithstanding anything herein to the contrary, the preceding sentence shall not apply to attorney's fees incurred which are subject to **PMF's** obligations to indemnify and defend any indemnitor. Venue in any action brought shall lie exclusively in Harris County, Texas.

**10.17. Court, Legal or Administrative Actions.** **PMF** agrees to give **Owner** immediate notice in writing of any administrative actions or lawsuits filed and prompt notice of any claims made against **Owner** or **PMF** (that **PMF** becomes aware of) concerning any purported incidents, actions or omissions occurring at or involving the Development, or any of the parties involved in the implementation and administration of this Agreement.

**10.18. Concurrent Remedies.** No right or remedy herein conferred on or reserved to a party hereto is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

**10.19. Default.** If **PMF** fails to execute the work with diligence and/or fails to complete the work within the time required under this Agreement, **Owner** may, by a written notice to **PMF**, terminate this Agreement. In this event, **Owner** may complete the work as necessary and may take possession of and use any materials or equipment on the work site which is necessary for completing the work. **PMF** shall be liable for any damages suffered by **Owner** resulting from **PMF's** failure to complete the work within the required time, whether or not **PMF** continues to work under the terms of this Agreement. This liability includes any increased costs incurred by **Owner** in completing the work.

**10.20. Non-appropriation.** **PMF** understands that the **Owner** is a governmental entity and should it not be funded for any period during the term of this Agreement any sums due for the remainder of the term shall be forgiven and the **Owner** shall not be liable for payment. The **Owner** will give **PMF** written notice within thirty (30) days after learning that the funds will not be available. Upon such written notice from the **Owner**, this Agreement will automatically terminate.

**10.21. Legal and Regulatory Compliance.** **PMF** understands that all activities under this Agreement shall comply with all applicable local, state and federal laws, ordinances and regulations. This Agreement shall automatically be amended as necessary to comply with all applicable local, state and federal laws, ordinances and regulations, including incorporation of any provisions now or hereafter applicable to the subject matter hereof and/or required to be included by any federal, state or local governmental authority with relevant jurisdiction over the subject matter hereof. Any such change or incorporation of legal and regulatory requirements shall be deemed incorporated herein, irrespective of whether or not such provisions are expressly set forth in this Agreement or any written amendment hereto.

**IN WITNESS THEREOF**, this document may be executed in multiple counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each party warrants that the undersigned is a duly authorized representative with the power to execute this contract. This Agreement shall be signed by the **PMF** and **Owner**. **PMF** shall sign this Agreement first, and after signing, shall deliver the original signed Contract—along with any and all required proofs of insurance and fidelity bonds, if not already delivered—to **Owner** for review and signature by **Owner**.

\*\*\*SIGNATURES TO FOLLOW\*\*\*

HOUSTON HOUSING AUTHORITY  
“OWNER”

By: \_\_\_\_\_

David A. Northern, Sr.  
President and CEO

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

[PROPERTY MANAGEMENT FIRM]  
“PMF”

By: \_\_\_\_\_

TBD  
TBD

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

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