

CONTRACT NO. 11165

**ENVIRONMENTAL REMEDIATION
SERVICES AGREEMENT**

BETWEEN

TECNICA ENVIRONMENTAL, INC.

AND

THE CHICAGO HOUSING AUTHORITY

Table of Contents

RECITALS	1
ARTICLE 1. INCORPORATION OF RECITALS	1
SECTION 1.01 INCORPORATION OF RECITALS	1
SECTION 1.02 DEFINITIONS	1
ARTICLE 2. CONTRACTOR'S DUTIES AND RESPONSIBILITIES	3
SECTION 2.01 SERVICES TO BE PERFORMED.....	3
SECTION 2.02 CONTRACT ADMINISTRATION	4
SECTION 2.03 PERFORMANCE STANDARDS.....	6
SECTION 2.04 NON-DISCRIMINATION	7
SECTION 2.05 SECTION 3 AND MBE/WBE/DBE PARTICIPATION AND REQUIREMENTS	7
SECTION 2.06 HUD'S GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS	10
SECTION 2.07 CHA'S SPECIAL CONDITONS FOR CONSTRUCTION CONTRACTS.....	10
SECTION 2.08 PATENTS AND COPYRIGHTS.....	10
SECTION 2.09 RELIGIOUS ACTIVITIES.....	10
SECTION 2.10 FORCE MAJEURE	11
ARTICLE 3. TERM OF AGREEMENT	11
SECTION 3.01 TERM OF AGREEMENT	11
SECTION 3.02 CONTRACT EXTENSION OPTIONS.....	11
SECTION 3.03 TIMELINESS OF PERFORMANCE	11
ARTICLE 4. COMPENSATION AND PAYMENT	12
SECTION 4.01 COMPENSATION	12
SECTION 4.02 NON-APPROPRIATION	12
ARTICLE 5. RISK MANAGEMENT	12
SECTION 5.01 INSURANCE.....	12
ARTICLE 6. WARRANTIES, REPRESENTATIONS AND SPECIAL CONDITIONS	12
SECTION 6.01 WARRANTIES, REPRESENTATIONS AND COVENANTS	12
SECTION 6.02 JOINT AND SEVERAL LIABILITY.....	14
SECTION 6.03 BUSINESS DOCUMENTS AND CONTRACTOR'S AFFIDAVIT	14
SECTION 6.04 CONFLICT OF INTEREST	14
SECTION 6.05 NON-LIABILITY OF PUBLIC OFFICIALS	15
ARTICLE 7. GENERAL CONDITIONS	15
SECTION 7.01 ENTIRE AGREEMENT.....	15
SECTION 7.02 DEEMED INCLUSION	15
SECTION 7.03 INTERPRETATION	15
SECTION 7.03 COOPERATION	16
SECTION 7.05 WAIVER.....	16
ARTICLE 8. AUTHORITY	16
SECTION 8.01 CHA'S AUTHORITY	16
SECTION 8.02 CONTRACTOR'S AUTHORITY	16
EXHIBIT I STATEMENT OF WORK	1
ATTACHMENT A TO EXHIBIT I - TECHNICAL SPECIFICATIONS	2
EXHIBIT II CHA REGIONS MAP	1
EXHIBIT III GENERAL CONDITIONS FOR NON-CONSTRUCTION CONTRACTS – HUD FORM 5370 (11/2006) (19 pages)	1

EXHIBIT IV CHA'S SPECIAL CONDITIONS (RFP 12 – 00887) FOR ENVIRONMENTAL REMEDIATION SERVICES AT VARIOUS CHA LOCATIONS..... 1

EXHIBIT V CONTRACTORS'S BEST AND FINAL OFFER 1

EXHIBIT VI CONTRACTOR'S AFFIDAVIT AND CONTRACTOR'S CERTIFICATIONS AND REPRESENTATIONS OF OFFERORS - CONSTRUCTION CONTRACTS (HUD FORM 5369) 1

AGREEMENT

THIS ENVIRONMENTAL REMEDIATION SERVICES AGREEMENT (hereinafter, "Agreement") is entered into as of this 15th day of October 2012 by and between the **CHICAGO HOUSING AUTHORITY** (the "CHA"), a municipal corporation organized under the Illinois Housing Authority Act 310 ILCS 10/1 et seq., with offices at 60 E. Van Buren St., Chicago, Illinois and **TECNICA ENVIRONMENTAL SERVICES, INC.**, (the "Contractor"), an Illinois corporation with offices located at 16W066 Jeans Rd., Lemont, Illinois 60439.

RECITALS

WHEREAS, the CHA is engaged in the development and operation of safe, decent and sanitary housing throughout the City of Chicago for low income families in accordance with the United States Housing Act of 1937, 42 U.S.C. §1437 et seq.; regulations promulgated by the United States Department of Housing and Urban Development ("HUD"), and the Illinois Housing Authorities Act. 310 ILCS 10/1 et seq. as amended, and other applicable laws, regulations and ordinances; and

WHEREAS, the CHA released Request for Proposals No. 12-00887 ("RFP") on or about March 19, 2012 to solicit firms to provide both asbestos and lead-based paint abatement and mold remediation services for CHA owned properties including both dwelling and non-dwelling units; and

WHEREAS, the Contractor submitted its Proposal on or about April 13, 2012 to the CHA indicating it is capable, ready, willing and able to provide the services as set forth in the RFP and as further set forth herein; and

WHEREAS, the CHA and the Contractor desire to enter into the Agreement for the provision of both asbestos and lead-based paint abatement and mold remediation services for CHA owned properties including both dwelling and non-dwelling units services as set forth herein.

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, the CHA and the Contractor agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS

Section 1.01 Incorporation of Recitals

The recitals set forth above are incorporated by reference as if fully set forth herein.

Section 1.02 Definitions

"Abatement" means the work area preparation, complete removal of a hazardous substance by methods including encapsulation, enclosure, controlled renovation procedures, removal, and clean-up to prescribed levels of decontamination.

“Agreement” means the agreement entered into between the CHA and the Contractor resulting from the RFP.

“Asbestos” is the commercial term applied to the asbestiform varieties of six different minerals (chrysotile, amosite, crocidolite, anthophyllite, tremolite and actinolite).

“Asbestos-Containing Material (ACM)” means those manufactured products and construction materials including structural and mechanical building materials that contain more than one percent (1.0%) asbestos by weight.

“Contract” or **“Contract Documents”** include all written modifications, amendments and change orders to this Agreement, the Agreement, **“Amendment(s) to Special Conditions”**, if any, the **“Special Conditions of the Contract for Construction”**, **“Amendment(s) to General Conditions”**, if any, **“HUD General Conditions for Construction (Form 5370)”**, the **“Work Schedule”** for each Task Order as defined in paragraph 6 of **“HUD General Conditions for Construction”** and the **“Special Conditions of the Contract for Construction”**, as amended from time to time pursuant to paragraph 6, the **“Instructions to Bidders (form HUD-5369)”**, applicable wage rate determinations from either the U.S. Department of Labor or HUD, the Performance and Payment Bond or Bonds or other assurances of completion, the **“Technical Specifications”** for each Task Order, and drawings for each Task Order, if any, Contractor’s Affidavit or any other affidavits, certifications or representations the General Contractor is required to execute under the Contract with the CHA, MBE/WBE/DBE and Section 3 Utilization Plans, and the CHA’s Section 3 Policy. In the event that any provision in one of the component parts of the Contract conflicts with any provision of any other component part, the provision in the component part first enumerated herein shall govern except as otherwise specifically stated. The Contract Documents enumerated herein contain the entire Contract between the parties, and no representations, warranties, agreements, or promises (whether oral, written, expressed, or implied) by the CHA or the General Contractor are a part of the Contract unless expressly stated therein.

“Contractor” means the firm, company, organization, vendor, etc. awarded the Agreement pursuant to the RFP.

“DOSH” means Division of Occupational Safety & Health.

“Lead-based Paint” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

“Mold Remediation” refers to techniques used in the process of removal and/or cleanup of mold from an indoor environment.

“OSHA” means the Federal Occupational Safety and Health Administration.

“Project” means the Work assigned through a Task Order.

“Property” means the CHA-owned property identified in the Task Order where Work is to be performed.

“Task Order” means an order for Work placed against the established Agreement.

“Work” means the performing, furnishing and/or installing of all labor, materials and equipment necessary at the Property in accordance with the Agreement.

ARTICLE 2. CONTRACTOR'S DUTIES AND RESPONSIBILITIES

Section 2.01 Services to be Performed

A. Scope of Work

The services that the Contractor shall provide during the term of the Agreement shall include, but not be limited to, provision of both asbestos and lead-based paint abatement and mold remediation services for CHA owned properties including both dwelling and non-dwelling units services (hereinafter collectively referred to as the “Services”). When the Contractor is required to perform one or more of the required abatement or remediation services in a particular unit, the Selected Respondent may not charge the CHA additional mobilization and demobilization for such dwelling or non-dwelling unit.

B. Statement of Work

The Services to be performed by the Contractor during the term of the Agreement are more fully described in the Statement of Work set forth in Exhibit I, which is attached hereto and incorporated by reference herein.

C. Deliverables

(a) **Deliverables Generally.** In connection with its performance of the Services, the Contractor shall prepare and/or provide to the CHA, at the times specified in the Task Order or at such other times as the CHA shall designate, certain deliverables that include, but are not limited to, the items described below (hereinafter, collectively "Deliverables"). All Deliverables shall be in the form described in the Task Order or in such other form as the CHA shall require. The CHA reserves the right to reject any or all Deliverables which, in the reasonable judgment of the CHA, the PDC, the OR, PM or FM are incomplete or do not meet the requirements. The CHA shall notify the Contractor in writing of any deficiencies the CHA identifies with respect to any Deliverable within fifteen (15) calendar days after receipt of such Deliverable, in which event the Contractor shall have a period of not more than fifteen (15) calendar days to correct such deficiency. The CHA may, at its sole and absolute discretion, accept a partial or incomplete Deliverable from the Contractor for review, but such acceptance shall not constitute a waiver of the CHA's right to insist upon completion and/or correction of such Deliverable.

(b) **Nature and Format of Deliverables.** The Deliverables to be provided by the Contractor shall, in general, be sufficient to communicate the progress of and details concerning the Work. Deliverables may include, without limitation, such things as samples, reports, spreadsheets, critical path schedules, photographs, construction administration records or reports, as-built drawings and specifications, as-built surveys, and inspection reports.

(i) Reports, studies, surveys, property inspections, recommendations and similar documents shall be provided in written and bound format and all photographic documentation and graphics shall be in either digital or color photographic form.

(ii) All reports shall be submitted in triplicate, with original quality graphics (either color or half-tone) capable of color Xerox®-type reproduction.

(iii) Deliverables such as samples, reports, spreadsheets, Critical Path Schedules, sketches, photographs, and drawings shall be provided in accordance with the schedule and delivery dates set by the Contract.

(c) Deliverables Upon Completion. Upon Substantial Completion of the Work, the Contractor shall provide one (1) full size "hard-copy" set of the final Plans and Specifications and as-built drawings and specifications clearly identifying the Work as actually installed.

(d) Electronic Data Formats. The Contractor shall be capable of collaborating with the CHA, the PDC, the Owner's Representative, Project Manager, and Field Manager electronically via the systems set forth in Paragraph 55 of the Special Conditions of the Contract, attached hereto.

The Contractor shall also provide all electronic files and media in formats directly readable and compatible with the CHA's CADD software and information management software. The following formats are acceptable:

- i. Micro Station DGN (preferred) or AutoCADD DWG or DXF for all graphics.
- ii. Microsoft Word for text.
- iii. Microsoft Excel for data.
- vi. Primavera Project Planner® (P3 version 3.1) or Primavera SureTrak® is CHA's software for developing and maintaining the Work Schedule.
- v. Other formats upon written approval of the CHA.
- vi. Pre-Delivery Requirements for Media. Before files are placed on delivery media, the Contractor shall perform the following procedures:
 - (1) Remove all extraneous graphics outside the border area and set active parameters to standard setting or those in the seed file.
 - (2) Assure all reference files are attached without device or directory specifications.
 - (3) Compress and reduce all design files using the appropriate utilities (note: a digital media copy of the decompression utility shall be provided with the deliverable if appropriate. e.g. PKUNZIP).
 - (4) Include all files, graphic and non-graphic, required for the Project.
 - (5) Assure that none of the files are device or directory dependent.
 - (6) Document all non-standard fonts.
 - (7) Check all transferred media, software and data for viruses with recognized, commercial quality anti-virus software and specify, in writing, the name and version of the anti-virus software (upon request, the Contractor shall supply the CHA with a copy of the actual software used for virus checking and removal).

(g) Accounting Statements. The Contractor shall submit separate statements for costs incurred at the Property, as required pursuant to the Contract.

Section 2.02 Contract Administration

A. Contract Administration.

1. A scope of Work for the services ordered pursuant to a Task Order (hereinafter, a "Scope of Work") will be prepared and provided to the Contractor. On the basis of

- the Scope of Work, with input from the CHA and its representatives, the Contractor shall prepare and submit a proposal to perform the Task Order work on a Lump Sum Basis within three (3) days, unless otherwise directed by the CHA. The Contractor is solely responsible for any expenses incurred to prepare a proposal. The Contractor's cost for the Task Order Work shall be comprised of the firm fixed prices under this Contract. The CHA reserves the right to further negotiate the cost for the Task Order work with the Contractor.
2. The CHA shall present each Scope of Work to the Contractor for Work that arises within the Contractor's assigned region(s), which shall be referred to as the Contractor's Primary Region(s). Task Orders will be assigned to the Contractor by assigned region. **The Contractor's Primary Region is Region 5.** The Regions are depicted on the map of Chicago, IL and further defined by the enumerated Region Census Tracts, which are attached hereto as Exhibit II and incorporated by reference herein. The CHA shall give the Contractor the first opportunity to prepare and submit a proposal to perform the Task Order work arising within the Contractor's Primary Region. The CHA may not finalize a Task Order with the Contractor for Task Order Work arising within the Contractor's Primary Region if the following conditions occur, including, but not limited to: (i) if the CHA determines that the Contractor cannot perform the Task Order work in its Primary Region, because the Contractor's proposed staffing or work plan to perform the Task Order Work will not meet the CHA's needs for the Project, or will not be advantageous to CHA, (ii) if the Contractor fails to submit a proposal for the Task Order work within three (3) days, or within such other time requested by the CHA, or (iii) if the CHA determines that the Contractor's fee proposal to perform the Task Order Work is excessive in comparison to the independent cost estimate for the Task Order Work, and the CHA and the Contractor cannot agree upon the firm fixed price for the Task Order Work. The CHA's decision not to finalize a Task Order with the Contractor shall be final and not subject to the Article 5.
 3. The CHA may request the Contractor to submit proposals for Task Order Work in an additional region, which shall be referred to as the Contractor's Secondary Region(s). **The Contractor's Secondary Region(s) are Region 3 and Region 4.** The Contractor may be given an opportunity to prepare and submit a firm-fixed price proposal for Task Order work arising within the Contractor's Secondary Region under the same terms and conditions set forth above in paragraph 2 of this section. The CHA's decision not to finalize a Task Order for work arising within the Secondary Region shall be final and not subject to the Article 5.
 4. Any services to be furnished under the Contract shall be ordered by issuance of Task Orders through the CHA's Department of Procurement and Contracts on CHA's Purchase Order forms. All Task Orders are subject to the terms and conditions of the Contract, notwithstanding the terms and conditions appearing on the reverse side of the CHA's Purchase Order forms that are maintained for CHA's records. If mailed, a Task Order is considered "issued" when the CHA deposits the order in the mail. Task Orders may not be issued orally, but may be issued by facsimile or by electronic commerce methods.

B. Claims for Additional Costs

In the event that additional Services not described in the Task Order are discovered to be necessary or are requested by the CHA, the Contractor must submit a Task Order Modification on a form approved by the CHA for those additional Services within seven (7) calendar days of said discovery or request. Upon receipt of written approval, the Contractor shall proceed to complete the additional Services. The Contractor shall not be allowed any additional fees/costs without such written approval of CHA. In no event may the Contractor make any claims against the CHA for equitable adjustments; additional fees or costs, direct or indirect, after completion of a Task Order assignment.

C. Online Contract Compliance System

The CHA maintains an online contract compliance system which provides various workflow automation features to improve reporting processes. The online contract compliance system will be used to monitor contract compliance, and the Contractor and its subcontractors shall be required to use the secure web-based system to submit all information related to compliance for each Task Order. Prior to commencing work on any Task Order, the CHA will provide the Contractor access to its online contract compliance system.

Accordingly, the Contractor expressly agrees that it, and its subcontractors, shall provide the required compliance data to the CHA via its electronic system available at <https://cha.diversitycompliance.com/>. The Contractor acknowledges that it and its subcontractors are responsible for responding by any noted response dates or due dates to any instructions or requests for information, and checking the electronic system on a regular basis to manage contact information and contract records. The Contractor also acknowledges that it is responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

The Contractor shall flow down this provision to subcontractors at every tier.

Section 2.03 Performance Standards

The Contractor shall perform all Services required under this Agreement with the degree of skill, care and diligence normally shown by an entity performing services of a scope, purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Furthermore, the Contractor shall perform or cause to be performed all Services required by the Agreement in accordance with the terms and conditions of this Agreement, in accordance with any federal, state and local laws, statutes, applicable to this Agreement, and to the satisfaction of the CHA. The Contractor must at all times act in the best interests of the CHA consistent with the professional and fiduciary obligations assumed by it in entering into this Agreement and will assure timely and satisfactory rendering and completion of its Services, including but not limited to Deliverables. Specifically, all services shall be performed in accordance with the due professional care standards required by and in accordance with the terms and conditions of this Agreement.

The Contractor must assure that all Services which require the exercise of professional skills or judgment must be accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. The Contractor covenants with the CHA to furnish its best professional expertise and judgment in furthering the CHA's

interests. The Contractor shall at all times use its best efforts to assure quality, timeliness, efficiency and creativity in rendering and completing the Services. The Contractor agrees that performance of the Services in a satisfactory manner shall include quick response to the CHA's needs. Accordingly, the Contractor shall return all telephone calls and respond to all electronic mail on a timely basis within one (1) business day.

Section 2.04 Non-Discrimination

Contractor shall comply with all federal, state and local non-discrimination laws, rules, regulations and ordinances including, but not limited to, The Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq. (1989), as amended, and all regulations promulgated thereto. Contractor shall particularly remain in compliance at all times with: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000 (e) note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. sec. 6101-6106 (1989); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988); Fair Housing Amendments Act, 42 U.S.C. Sec. 3601 et seq., (1988); Americans with Disabilities Act of 1990, 42 U.S.C. 12101 and 41 C.F.R. Part 60 et seq., (1990). Illinois Human Rights Act, 775 ILCS 511-101 et seq., as amended, and regulations promulgated in accordance therewith, including but not limited to the Equal Employment Opportunity Clause, 111. Admin. Code Tit. 44 s 750 Appendix A; Employment Opportunity Clause, 111. Admin. Tit. 44 s 750 Appendix A; Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended. Chicago Human Rights ordinance, s2-160-010 et seq., of the Municipal Code of Chicago, as amended; and the Chicago Fair Housing Regulations, s5-8-010 et seq., of the Municipal Code of Chicago, as amended. In addition, Contractor must furnish such reports and information as requested by the Chicago Commission on Human Relations.

Section 2.05 Section 3 and MBE/WBE/DBE Participation and Requirements

A. Section 3 – Compliance: The CHA has determined that the contract awarded under this solicitation 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), and Title 24 of Subchapter B, Part 135 – Economic Opportunities for Low- and Very Low-Income Persons, 24 CFR 135.3. Section 3 Compliance requires that any contract or subcontract entered into for the benefit of public housing residents shall require that, to the greatest extent feasible, economic opportunity in the form of training, employment, contracting, and other economic opportunities arising from the expenditure of public housing assistance for housing rehabilitation and housing construction be directed to low- and very low-income persons.

1. Section 3 - Clause

- i. 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.

- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.

2. Section 3 Compliance Goals

- i. Contractors and their subcontractors may demonstrate compliance by committing to employ section 3 residents and by subcontracting with section 3 business concerns in accordance with the requirements of 24 CFR Part 135.

A Section 3 Business concern is a business concern under HUD Regulations:

- (a) 51 percent or more owned by section 3 residents; or
- (b) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of

the date of first employment with the business concern were section 3 residents; or

(c) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

- ii. Contractor and sub-contractors may demonstrate compliance with the requirements for contracting with Section 3 Business Concerns by committing to award to Section 3 Business Concerns at least 10 percent of the total dollar amount of the contract awarded to the contractor for building trades work for maintenance, repair modernization or development of public housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction and at least 3 percent of the total dollar amount of all other Section 3 covered contracts.
- iii. In evaluating compliance with 24 CFR Part 135, contractors and their subcontractors have the burden of demonstrating to the greatest extent feasible their ability or inability to meet the goals set forth in 24 CFR Part 135 for providing training, employment and contracting opportunities to section 3 residents and section 3 business concerns.
- iv. Contractors and their subcontractors are also encouraged to provide other economic opportunities to train and employ section 3 residents including, but not limited to, use of “upward mobility”, “bridge” and trainee positions to fill vacancies, and hiring section 3 residents in part-time positions (24 CFR 135.40).

3. Documenting and Reporting

- i. Contractor agrees to comply with the above Section 3 requirements in accordance with the Contractor’s Section 3 Utilization Plan, which shall be prepared by the Contractor and agreed to by CHA. CHA shall not be required to agree to the Contractor’s Utilization Plan until the Contractor meets its burden to establish that it will comply with 24 CFR Part 135 and otherwise comply with CHA’s Section 3 Policy (see http://www.thecha.org/pages/section_3/65.php or the copy included in the solicitation) as may be required. The Contractor shall submit a Section 3 Utilization Plan for each proposal to perform a Task Order, which shall be incorporated by reference within each assigned Task Order upon acceptance by the CHA.
- iii. The Contractor and its subcontractors shall provide all required compliance data with respect to Contractor’s Section 3 requirements to the CHA via CHA’s electronic system available at <https://cha.diversitycompliance.com/>. The Contractor and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. The Contractor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

4. This Section 3 Contract Provision shall flow down to each subcontract at every tier.

B. MBE/WBE/DBE Compliance. The Contractor shall submit a Minority and Women Disadvantaged Business Enterprise (“MBE/WBE/DBE”) Utilization Plan for each proposal to perform a Task Order, which when accepted by CHA shall be incorporated by reference within each assigned Task Order upon acceptance by the CHA. Contractor agrees to comply with the CHA’s MBE/WBE/DBE requirements in accordance with the Contractor’s accepted MBE/WBE/DBE Utilization Plan, and shall otherwise comply with the CHA’s MBE/WBE Policy (see http://www.thecha.org/pages/mbe_wbe_dbe/36.php or the copy included in the RFP).

Documenting and Reporting. The Contractor and its subcontractors shall provide all required compliance data with respect to Contractor’s MBE/WBE/DBE to the CHA via CHA’s electronic system available at <https://cha.diversitycompliance.com/>. The Contractor and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. The Contractor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

Section 2.06 HUD’s General Conditions for Construction Contracts

HUD’s General Conditions for Non-Construction Contracts (HUD form 5370 (10/2006)) (“General Conditions”), are attached hereto as Exhibit III and incorporated by reference as if fully set forth herein. The Contractor agrees to fully comply with the General Conditions.

Section 2.07 CHA’s Special Conditions for Construction Contracts

CHA’s Special Conditions for the Services are attached hereto as Exhibit IV and incorporated by reference as if fully set forth herein. The Contractor agrees to fully comply with the CHA’s Special Conditions.

Section 2.08 Patents and Copyrights

The CHA reserves an exclusive, perpetual and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for CHA or HUD purposes, including, but not limited to, commercial exploitation: (a) the copyright or patent in any work developed or discovered in the performance of the Services under this Agreement, and (b) any rights of copyright or patent of which the Contractor purchases ownership with funds awarded pursuant to this Agreement for the purpose of meeting the objectives of this Agreement.

Section 2.09 Religious Activities

In connection with the Services to be provided under this Agreement, the Contractor agrees:

A. That it shall not discriminate against any person on the basis of religion and shall not limit employment or give preference in employment to persons on the basis of religion; and

B. That it shall not discriminate when rendering the Services hereunder against any person on the basis of religion and shall not limit such Services or give preference to persons on the basis of religion.

Section 2.10 Force Majeure

Notwithstanding any other provision in this Agreement, the Contractor shall not be liable or held responsible for any failure to perform or for delays in performing its obligation under the Agreement, including but not limited to, the scope of services set forth hereunder which result from circumstance or causes beyond Contractor's reasonable control, including without limitation, fire or casualty, acts of God, strikes or labor disputes, war or violence, or any law, order or requirement of any government agency or authority.

ARTICLE 3. TERM OF AGREEMENT

Section 3.01 Term of Agreement

The term of this Agreement is for the period of November 7, 2012 through November 7, 2014 or until the Contract is terminated in accordance with its terms, whichever occurs first. The Contractor's duty to complete a Task Order assigned to it during the term of the Agreement, but not completed at the expiration of the term of the Agreement, shall survive the expiration of the Agreement, and all Services shall continue to be performed under the terms and conditions of the Contract, which shall survive the expiration of term of the Contract, until the Services to be performed under the Task Order have been fully completed.

Section 3.02 Contract Extension Options

The CHA, at its sole discretion, may extend this Agreement for 2 additional 1-year option periods. Any extension shall be under the same terms and conditions as this original Agreement. The Agreement shall be modified to reflect the time extension in accordance with the provisions of Section 9.03 of this Agreement.

Section 3.03 Timeliness of Performance

The Contractor shall use its best efforts to provide the Services and Deliverables within the time limits required under this Agreement, or from time to time as otherwise required by the CHA. The Contractor and the CHA acknowledge that deadlines for certain Services provided for in this Agreement may be dictated by the requirements of agencies or events outside the control of the CHA and the Contractor, and the failure by the Contractor to meet deadlines may result in economic or other significant losses to the CHA. Therefore, except to the extent that the Contractor's inability to meet its deadlines is caused by the delay due to the CHA, by acts of God or other events outside the control of the Contractor, TIME IS OF THE ESSENCE, so that failure to perform in a timely manner shall be considered a material breach of the Agreement.

ARTICLE 4. COMPENSATION AND PAYMENT

Section 4.01 Compensation

The CHA shall pay the Contractor an amount up to and not-to-exceed \$666,677.00 for the satisfactory performance of the Services (the "NTE Amount") in accordance with the firm fixed rates set forth in the Contractor's Revised Fee Proposal dated August 24, 2012, which is attached as Exhibit V and incorporated by reference herein. Compensation is subject to all conditions and requirements as contained in the Contract Documents. The Contractor agrees not to perform, and waives any and all claims for payment of work, materials, expenses, resources or other claims which would result in billings beyond the NTE Amount without a prior written amendment to the Contract authorizing said additional work and payment. The Contractor acknowledges an affirmative duty to monitor its performance and billings to ensure that the scope of work is completed within the NTE Amount.

Section 4.02 Non-Appropriation

Funding for this Agreement is subject to: (1) availability of federal funds from HUD, (2) the approval of funding by the CHA's Board of Commissioners, and (3) the Contractor's satisfactory performance of this Agreement. Furthermore, in the event that no funds or insufficient funds are appropriated and budgeted or appropriated funds are rescinded by Congress in any fiscal period of the term of this Agreement for payments to be made under this Agreement, then the CHA may notify the Contractor of such occurrence and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted.

ARTICLE 5. RISK MANAGEMENT

Section 5.01 Insurance

The Contractor agrees to comply with and meet or exceed all of CHA's insurance requirements that are set forth in CHA's Special Conditions - Section 36 (see Exhibit IV).

Section 5.02 Indemnification

The Contractor agrees to indemnify CHA in accordance with the indemnification provisions contained in CHA's Special Conditions - Section 49 (Exhibit IV).

ARTICLE 6. WARRANTIES, REPRESENTATIONS AND SPECIAL CONDITIONS

Section 6.01 Warranties, Representations and Covenants

In connection with the execution of this Agreement, the Contractor warrants and represents to CHA:

- A. That it is financially solvent; and that it and each of its employees or agents of any tier are competent to perform the Services required under this Agreement; and that Contractor

is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated herein.

- B. That no officer, agent or employee of the CHA is employed by the Contractor or has a financial interest directly or indirectly in this Agreement or the compensation to be paid hereunder, except as may be permitted in writing by the CHA and HUD, and that no payment, gratuity or offer of employment shall be made in connection with this Agreement by or on behalf of the Contractor to any employee of the CHA; and the Contractor further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions set forth herein shall be voidable as to the CHA.
- C. That Contractor and its subcontractors, if any, are not in default at the time of the execution of this Agreement, or deemed by the CHA's Director of Procurement and Contracts to have, within the last five (5) years, been found to be in default on any contract awarded by the CHA.
- D. That, except only for those representations, statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, no representation, statement or promise, oral or in writing, or of any kind whatsoever, by the CHA, its officials, officers, agents, or employees, has induced the Contractor to enter into this Agreement or has been relied upon by the Contractor.
- E. That the Contractor has carefully examined and analyzed the provisions and requirements of this Agreement and that it understands the nature of the Services required;
- F. That the Contractor acknowledges that the CHA, in its selection of the Contractor to perform the Services hereunder, materially relied upon the Contractor's Proposal, that the Proposal was accurate at the time it was made and that no material changes in it have been nor will be made without the express consent of the CHA;
- G. That except only for those representations, statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, no representation, statement or promise, oral or in writing, or of any kind whatsoever, by the CHA, its officials, officers, agents, or employees, has induced Contractor to enter into this Agreement or has been relied upon by Contractor.
- G. That the Contractor and, to the best of its knowledge, its subcontractors are not in violation of the provisions of 18 U.S.C. § 666 (a)(2) and other Federal criminal laws applicable to public contracts funded with federal government funds, the Illinois Criminal Code, 720 ILCS 5/33E-1 et seq. (1989), as amended; and the CHA's Ethics Policy, as amended (see http://www.thecha.org/pages/forms_documents/66.php).
- H. That the Contractor has disclosed any and all relevant information to the CHA and the Contractor understands and agrees that any certification, affidavit or acknowledgment made under oath or failure to disclose in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination of this Agreement.

- I. That the Contractor is a duly organized and validly existing corporation under the laws of the State of Illinois and has and will continue to have at all times during the term of this Agreement, all licenses necessary to render the Services required hereunder.
- J. That the Contractor has the power and authority to enter into and perform all of its obligations under this Agreement, and that this Agreement, when executed will constitute the duly authorized, valid and legally binding obligation of the Contractor.

Section 6.02 Joint and Several Liability

In the event that the Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by the Contractor shall be the joint and several obligation or undertaking of each individual or other legal entity.

Section 6.03 Business Documents and Contractor's Affidavit

The Contractor shall provide to the CHA evidence of its authority to conduct business in the State of Illinois, including without limitation, registrations of assumed names or limited partnerships and certifications of good standing with the Office of the Secretary of the State of Illinois. The Contractor's Affidavit and Contractor's Certifications and Representations of Offerors –Construction Contracts (HUD Form 5369) are attached hereto as Exhibit V and incorporated by reference as if fully set forth herein.

Section 6.04 Conflict of Interest

- A. No member of the governing body of the CHA or other units of government and no other officer, employee, or agent of the CHA or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains, shall have any personal interest, direct, or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly or CHA employee shall be entitled to any share or part of this Agreement or to any financial benefit to arise from it.
- B. The Contractor covenants that it and its employees, or sub-contractors, presently have no interest and shall acquire no interest, direct or indirect, in this Agreement which would conflict in any manner or degree with the performance of the Services hereunder. The Contractor further covenants that during the performance of this Agreement, no person having any such interest shall be employed. Contractor agrees that if the CHA determines that any of Contractor's services for others conflict with the Services that the Contractor is to render for the CHA under this Agreement; Contractor shall terminate such other services immediately upon request of the CHA.
- C. Additionally, pursuant to the conflict of interest requirements in OMB Circular A-102 and 24 C.F.R. §85.36(b)(3), no person who is an employee, agent, consultant, officer, or appointed official of the CHA and who exercises or has exercised any functions or responsibilities with respect to HUD assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to HUD activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds

hereunder, either for himself or herself or for those whom he or she has family or business ties, during his or her tenure or for one year thereafter.

- D. Furthermore, the Contractor represents that it currently is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal year 1990, 31 U.S.C. Subsection 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended.

Section 6.05 Non-Liability of Public Officials

No official, employee or agent of the CHA shall be personally liable to the Contractor or the Contractor's successor in interest for: (i) any default or breach by the CHA under this Agreement, (ii) any fee due to the Contractor or the Contractor's successor in interest or (iii) any other obligation arising under this Agreement.

ARTICLE 7. GENERAL CONDITIONS

Section 7.01 Entire Agreement

This Agreement and the Exhibits attached hereto shall constitute the entire agreement between the parties hereto relating to the subject matter hereof and no other warranties, inducements, considerations, covenant, conditions, promises or interpretations shall be implied between the parties that are not set forth herein. In the event of a conflict between the Agreement and any Exhibits that have been incorporated by reference, the terms of the Agreement shall control.

Section 7.02 Deemed Inclusion

Provisions required by law, ordinances, rules, regulations or executive orders to be included in this Agreement are deemed inserted in this Agreement whether or not they appear in the Agreement or, upon application of either party, the Agreement shall be amended to make this insertion; however, in no event shall the failure to insert the required provisions before or after the Agreement is signed prevent its enforcement.

Section 7.03 Interpretation

Any headings of this Agreement are for convenience of reference only and do not define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions hereof and thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this Agreement.

Section 7.03 Cooperation

The Contractor agrees at all times to cooperate fully with the CHA and to act in the CHA's best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, the Contractor shall make every effort to assure an orderly transition to another Contractor, the uninterrupted provision of Services during any transition period and shall otherwise comply with the reasonable requests and requirements of the CHA in connection with the termination or expiration of this Agreement.

Section 7.05 Waiver

Whenever under this Agreement the CHA, by a proper authority, expressly waives the Contractor's performance in any respect or expressly waives a requirement or condition to either the CHA's or the Contractor's performance, the waiver so granted, shall only apply to the particular instance and shall not be deemed a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver shall be construed as a modification of the Agreement regardless of the number of times the CHA may have waived the performance of a requirement or condition.

ARTICLE 8. AUTHORITY

Section 8.01 CHA's Authority

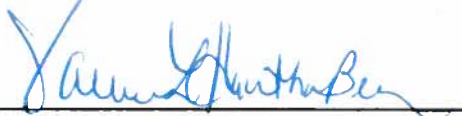
Execution of this Agreement by the CHA is pursuant to the United States Housing Act of 1937, 42 U.S.C. §1437 et seq.; regulations promulgated by HUD, and the State Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances.

Section 8.02 Contractor's Authority

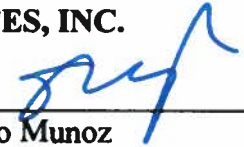
The signature of the person signing on behalf of the Contractor has been made with complete and full authority to commit the Contractor to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained herein, including without limitation such representations, certifications and warranties collectively attached hereto and incorporated by reference herein.

IN WITNESS WHEREOF, the CHA and the Contractor have executed this Agreement as of the date first written above.


CHICAGO HOUSING AUTHORITY

BY: 
Valerie Hawthorne-Berry, Director
Procurement and Contracts

TECNICA ENVIRONMENTAL SERVICES, INC.

By: 
Sergio Munoz
President

Approved as to Form and Legality
Chicago Housing Authority
Office of the Chief Legal Counsel

BY: 
Melissa Freeman Cadoree
Deputy Chief Legal Officer