CONTRACT NO. 11570

TASK ORDER COMPETITIVE CONTRACTING MASTER AGREEMENT

BETWEEN

THE CHICAGO HOUSING AUTHORITY

AND

POWERS & SONS CONSTRUCTION COMPANY, INC.

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CONTRACT NO. 11570

This **TASK ORDER COMPETITIVE CONTRACTING MASTER AGREEMENT** ("Master Agreement" or "Agreement") is made as of this 1st day of July, 2015 (the "Effective Date") between the **CHICAGO HOUSING AUTHORITY**, a municipal corporation of the City of Chicago, State of Illinois (hereinafter, the "**CHA**"), with its offices located at 60 E. Van Buren St., Chicago, Illinois 60605 and **POWERS & SONS CONSTRUCTION COMPANY, INC.** (hereinafter, the "**Contractor**" or "**GC**") an Illinois corporation, with offices located at 5040 S. State St., Chicago, IL 60609.

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 desires the services of general contractors to provide indefinite quantity, indefinite delivery construction services under this Master Agreement; and

WHEREAS, the CHA issued Request for Proposal No. 14-01328 (the "RFP") on or about July 22, 2014, as amended by Addendum No. 1, issued August 14, 2014, Addendum No. 2, issued August 29, 2014, Addendum No. 3, issued September 22, 2014, and Addendum No. 4, issued September 23, 2014, to solicit multiple general contractors to provide general construction services through the use of this Master Agreement; and

WHEREAS, the Contractor, in response to the RFP, submitted its proposal on or about September 25, 2014, representing and warranting that it is highly qualified and competent to provide the general construction services for CHA Projects awarded to the Contractor by Task Orders in accordance with this Master Agreement;

WHEREAS, the CHA has created three groups of contractors (the "Groups"), and the Contractors have been assigned to one or more Groups to which they applied and for which the CHA has determined they qualify. Group A is for contractors who have the ability to bid on, perform the work, and secure bonding for projects valued from $100,000 up to $500,000. Group B is for contractors who have the ability to bid on, perform the work, and secure bonding for projects valued over $500,000 up to $1,500,000. Group C is for contractors who have the ability to bid on, perform the work, and secure bonding for projects valued over $1,500,000 up to $3,000,000.

WHEREAS, the Contractor is assigned to **Groups B and C.**

WHEREAS, the CHA may, from time to time, formally request that the Contractor

respond to Request(s) for Services ("RFS") for Task Order awards for Projects and submit Lump Sum Base Bids in response to such Requests for Services; and

WHEREAS, the Contractor is ready, willing and able to provide the construction services required hereunder and to respond to CHA's RFS's as further set forth herein; and

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 I INCORPORATION OF RECITALS

1.1 Incorporation of Recitals. The recitals set forth above are incorporated by reference as if fully set forth herein.

1.2 Definitions. The following words and phrases have the following meanings for purposes of this Agreement:

"Architect Engineer" or "AE" – The person, firm, or entity selected by the CHA to perform architectural and engineering services with respect to all aspects of the performance of the design, engineering and construction administration of Projects. Any reference in this Agreement to specific architectural, engineering, or related disciplines shall be construed as services directed and provided by the AE, whether they are performed by the AE or by professionals or sub-consultants retained by the AE.

"Business Day" means Monday through Friday but does not include federal and state holidays.

"Calendar Day" means Monday through Sunday. However, if the due date for any action falls on a Saturday, Sunday or CHA holiday, said action shall be due on the immediately following Business Day.

"CHA's Representative" means the construction management ("CM") firm, person, or entity engaged by the CHA, under a separate contract, to plan, coordinate, and oversee all design and construction activities.

"Capital Maintenance Program" – Program to provide needed improvements to existing CHA housing and to rehabilitate acquired housing. This program supplements improvements performed by Private Property Managers.

"Construction Activities" – means all construction trades activities (both preparatory such as demolition of existing structures or interior demolition, remediation and actual construction) required to rehabilitate or build residential or non-residential structures, recreational space, and site improvements.

"Construction Documents" - All of the Plans and Specifications, addenda, change orders, modifications, and all other prints, models, designs, computations, sketches, test data, photographs, renderings, plans, shop drawings, proposal drawings, and other materials relating to, or contemplated by the Work, prepared by the CHA, the AE or by any engineer, professional or professional consultant engaged by the CHA or the AE in connection with a Project.

"Construction Manager" or "CM" – The person, firm, or entity retained and authorized by the CHA to plan, coordinate, and oversee design, construction, and construction management activities for a Property on behalf of the CHA.

"Contract" or "Agreement" means this Task Order Competitive Contracting Master Agreement entered into between the CHA and the Contractor.

"Contract Documents" - The Contract Documents, which form the contract between the CHA and a GC for a Project under a Task Order under this Agreement, include all written amendments to this Contract, this Contract, "Amendment(s) to Special Conditions", if any, the "Special Conditions of the Contract for Construction" (the "Special Conditions"), "Amendment(s) to General Conditions", if any, "HUD General Conditions for Construction (HUD form 5370)" (the "HUD General Conditions"), approved modifications, amendments and change orders to Task Orders issued under this Contract, Task Orders issued under the Contract, and the "Work Schedule" for each Task Order as defined in paragraph 6 of the HUD General Conditions, as amended from time to time pursuant to such 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 the Task Order, and drawings for the Task Order, if any, the Contractor's Affidavit, the Compliance Affidavit, or any other affidavits, certifications or representations the Contractor is required to execute under the Contract, and the MBE/WBE/DBE and Section 3 Utilization Plans. The Contract Documents enumerated herein contain the entire contract between the parties for a Task Order, and no other representations, warranties, agreements, or promises (whether oral, written, expressed, or implied) by the CHA or the Contractor are a part of the Task Order unless expressly stated therein.

"Contract Year" means the 12 month period following the effective date of the Agreement and each subsequent 12 month term of the Agreement.

"Contracting Officer" – The manager of the CHA Department of Procurement and Contracts or such other party as the CHA may designate in writing.

"Cost" – The actual expenses incurred in the delivery of a product, service, or construction; includes overhead and both direct and indirect costs, but does not include fee or profit for the vendor.

"Development" – Building or group of buildings identified under a single name and Asset Management Property Number.

"Development Activities" – New construction or repurposing activities not considered rehabilitation, modernization or maintenance.

"Field Manager" or "FM" - The designated individual within the CHA or the CM who works under a Project Manager to provide oversight at the location of a Project.

"Hourly Rates" shall mean that hourly rate by particular type of worker, which does not include expenses, overhead, profit and fees of the Contractor.

"Contractor" or "GC" – The person or entity designated as the prime general construction contractor in the Contract and Task Order(s).

"Key Personnel" – Positions of general contractor staff which include, at a minimum, the program executive, project manager, superintendent(s), invoice processor, safety personnel, and scheduler (or companies performing such services on behalf of the Contractor).

"LEED® NC" – Leadership in Energy and Environmental Design for New Construction, Version 3, as published by the United States Green Building Council (USGBC) in 2009.

"LEED® AP" - LEED® Accredited Professional designation.

"Lump Sum Base Bid Total" – The total amount, in money, to be paid or charged for commodities and the construction services for a Project; includes all costs (direct and indirect labor, overhead, materials and general conditions) and profit or fee that the Contractor submits in response to a RFS.

"New Construction" - Site preparation for (including but not limited to the demolition of existing structures) and construction of entirely new structures and/or significant extensions to existing structures, whether or not the site was previously occupied.

"Notice to Proceed"- Written notice from CHA's Contracting Officer authorizing the General Contractor to start work on a Project under a Task Order.

"Plans and Specifications" – The final drawings and specifications for a Task Order, as such may be amended from time to time.

"Private Property Managers" or "PPMs" – Firms which provide property management services at CHA developments.

"Procurement Specialist"- the CHA employee identified in the Request for Services as the sole point of contact regarding the solicitation from the date of issuance until selection of the successful bidder.

"Project" – means Services described herein, and further described and defined in a Task Order related to the Work the Contractor will perform at the site pursuant to the Task Order issued under the Contract.

"Project Manager" or "PM" – The designated individual within CHA or CM staff to manage a specific Task Order.

"Property"- CHA property where a Project is to be performed under a Task Order.

"Request for Services" or "RFS" means a written request from the CHA to a designated Group of contractors participating in the TOCC program to prepare and submit a work plan and a Lump Sum Base Bid for the Services related to a specific Project as set forth in the RFS and to be performed pursuant to a Task Order.

"Services" means, collectively, the general construction services, duties and responsibilities described in the Contract Documents and any and all work necessary to complete them or carry them out fully as required by and in accordance with a Task Order under the Contract.

"Task Order" means the order issued by the CHA that sets forth the description of a Project, scope of work, time frame for performance and fixed fee for the GC's Services to be performed in accordance with the terms and conditions of the Contract.

"Task Order Competitive Contracting ("TOCC")"- (formerly known as "IDIQ") means the delivery of general construction services through a competitive indefinite delivery, indefinite quantity task order program in which contractors are afforded opportunities to compete for Task Orders but are only guaranteed a minimum value of work.

"Value Engineering" means a technique by which Contractors may voluntarily suggest methods for performing more economically. Value Engineering is identified after the submission of the bids.

"Work" means all labor, materials, and Services required to be performed by the Contractor for the general construction required by a Project in accordance with a Task Order issued under the Contract.

ARTICLE II CONTRACTOR'S DUTIES AND RESPONSIBILITIES

2.1 Scope of Work. The Scope of Work that the Contractor may be requested to provide under this Agreement are general contractor construction services, and are described generally in paragraph A of **Exhibit I**, Scope of Work/Statement of Work, which is attached hereto and incorporated by reference herein.

2.2 Statement of Work. The Services that the Contractor shall provide under this Agreement pursuant to Task Orders are described generally in paragraph B of **Exhibit I**, Scope of Work/Statement of Work, which is attached hereto and incorporated by reference herein.

2.3 Contract Administration. The Contractor, if selected to perform Services pursuant to a Task Order resulting from a RFS, shall act as the prime general contractor for the scope of work for the Project described in the Task Order. The Contractor will be required to work

with the CHA's Capital Construction Department staff to satisfy the contracting objectives of awarded Task Orders.

Any Services to be furnished under the Master Agreement shall be requested by the issuance of Requests for Services by the CHA's Capital Construction Department through the Department of Procurement and Contracts. All Task Orders issued pursuant to a RFS will be subject to the terms and conditions of the Contract. If mailed, a Task Order will be considered "issued" when the CHA deposits the Task Order in the mail. Task Orders may only be issued by CHA's Contracting Officer and may not be issued orally, but may be issued by facsimile, or by electronic commerce methods, and will be considered issued at the time of transmittal.

A. Task Ordering Procedures

1. Requests for Services. From time to time, the CHA may issue a RFS to the appropriate Group (Group A, B or C) that will describe the scope of work and Services to be performed pursuant to a Task Order. The Task Order will be governed by the Contract. The RFS will set forth:

   - Scope of work;
   - Technical Specifications;
   - Drawings;
   - Parameters for the Schedule of Work;
   - Required completion date or duration of the work;

2. When appropriate, the Department of Procurement and Contracts will conduct a site visit at the location(s) where the work is anticipated in order to review the projected work with the contractors, the AE, the CM and an authorized representative from the CHA department overseeing the proposed work.

3. GCs within the Group are to respond to the RFS by sealed bid. The bid will be in the form of a Lump Sum Base Bid. The Contractor's Lump Sum Base Bid will constitute an irrevocable offer for a period of 180 calendar days after the date of the bid opening. After receiving all bids in response to a RFS, the CHA, in its sole discretion, may choose not to award a Task Order. Any costs associated with the preparation of a Lump Sum Base Bid will not be reimbursable under this Contract or a resulting Task Order.

4. The GC must provide and pay for an acceptable performance and payment bond and certificate of insurance within seven (7) calendar days of receiving a Task Order award letter or the Task Order may be rescinded and awarded to the next lowest responsible and responsive bidder. IMPORTANT: The surety must be a guaranty or Surety Company which appears in the U. S. Treasury Circular No. 570 published annually in the Federal Register, and must, at a minimum, have an "A" rating according to the A.M. Best Rating Guide. Failure to provide the required bonds shall constitute an event of default under the Contract.

5. Exceptions to Task Order Selection Considerations. CHA's Contracting Officer shall issue a RFS directly to a GC if one of the following exceptions applies:

    a. CHA's need for the supplies or services is so urgent that providing fair opportunity to all Contractors in the designated Group would result in unacceptable delays (due to a public exigency or emergency, in accordance with 2 C.F.R. 200.320 (f)(2));
    b. Only one (1) awardee is capable of providing the supplies or services required at the level of quality required because the services are unique or highly specialized;
    c. The Task Order must be issued on a non-competitive basis in the interest of economy and efficiency, because it is a logical follow-on to the Services being performed under a previously issued Task Order, provided that all GCs in the Group were given a fair opportunity to be considered for the original award of the Task Order; or
    d. It is necessary to place a Task Order to satisfy the guaranteed minimum value of work in a GC's Contract.

B. Opt Out Procedure

1. For each Group to which the GC is assigned, the GC may decline to submit a bid for three (3) Requests for Service issued per Contract Year (i.e., a GC assigned to Groups A, B, and C is permitted to decline to submit a bid for an aggregate total of nine (9) Requests for Services issued per Contract Year, but only three (3) for each Group; a GC assigned only to Group C is permitted to decline to bid on a total of three (3) Requests for Services issued per Contract Year).

2. If the GC chooses not to respond to a RFS, the GC must submit written notice of its decision not to bid on such RFS to the CHA Procurement Specialist designated in the RFS by the deadline to respond to the RFS. Such notice shall clearly identify the RFS and shall list all prior RFS's issued to the same Group to which the GC has declined to bid during that Contract Year. The GC will be considered to have declined to submit a bid should the GC submit a Lump Sum Base Bid after the submission date and time required by the RFS.

3. Any GC who declines to submit bids for four (4) Requests for Services issued to a single Group in a Contract Year may have its Contract terminated, thus voiding the Contract's guaranteed minimum value of work. In such instance, the GC acknowledges and agrees that it shall not be entitled to any guaranteed minimum value of work.

4. Notwithstanding the foregoing, the CHA reserves the right, upon written notice, to require that all GCs in a Group must submit a bid in response to a particular RFS should the CHA deem it in the best interests of the CHA.

C. Task Order Selection Criteria. The following factors will be considered in the award of Task Orders:

1. Price of bid

2. Responsiveness, which may include, but is not limited to, compliance with CHA MBE/WBE/DBE and Section 3 Policies
3. Responsibility, which may include, but is not limited to:

    a. Past performance on earlier Task Orders under the Contract or other contracts with CHA:
        i. Quality
        ii. Timeliness
        iii. Cost Controls
        iv. Compliance with Contract requirements and applicable policies
    b. Potential impact on other Task Orders awarded to Contractor
    c. Bonding Capacity
    d. Contractor's Affidavit of Uncompleted Work
    e. Technical and financial capabilities

D. The CHA will review each submitted sealed bid and issue a Task Order to the responsive and responsible GC whose Lump Sum Base Bid is deemed to be the lowest responsive, responsible bid and is in the best interest of the CHA, unless the CHA, at its sole discretion, chooses not to award a Task Order.

E. The CHA's acceptance of a Lump Sum Base Bid submitted in response to a RFS will be demonstrated by the issuance of a Notice of Award signed by the Contracting Officer or his/her designee. However, the GC will not commence Services, and the CHA will not be liable for any costs incurred by, or for payments to be made to, the GC without a Notice-to-Proceed executed by the Contracting Officer or his/her designee directing the GC to commence the Services in accordance with the Task Order.

F. By accepting the GC's bid and issuing a Task Order and Notice-to-Proceed in response to a particular RFS, the Agreement will be deemed to have been amended to incorporate any special conditions issued pursuant to the RFS with respect to that Project/Task Order only.

G. All Task Orders awarded under the Agreement are subject to the terms and conditions of the Agreement. In the event of a conflict among the terms and conditions of the Agreement, or a Task Order, the conflict will be interpreted in the following order of precedence: (1) this Master Agreement; (2) the Task Order and all attachments and exhibits thereto.

H. The GC acknowledges and agrees that:

    1. The CHA is under no obligation to issue any work pursuant to a RFS;
    2. The GC is solely responsible for any and all costs incurred to respond to a RFS;
    3. The level of construction services requested may vary by Project; and
    4. The CHA, at the sole discretion of the Contracting Officer, may enter into similar agreements with other GCs and award work to them pursuant to a RFS, or enter into similar agreements for construction services pursuant to separate procurements.

5. A RFS will be considered "issued" when the CHA deposits the RFS in the mail, or when they are sent by facsimile or by electronic commerce methods (e.g. e-mail). A RFS may not be issued orally.

I. 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 GC 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 of the Contracting Officer, the GC shall proceed to complete the additional Services. **Without said written approval, the GC shall not be allowed any additional costs. In any event, the GC may not make any claims against the CHA for equitable adjustments, additional costs, direct or indirect, or fees after completion of a Task Order assignment.**

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

A. **Section 3 – Compliance:** The CHA has determined that Task Orders awarded under this Agreement are 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; 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).

v. **Section 3 Hiring**
The Section 3 Regulations provide that contractors and their subcontractors demonstrate compliance by employing Section 3 Residents as 30 percent of the aggregate number of New Hires. A contractor or subcontractor is required to hire only when a New Hire is needed to perform the work.

(a) CHA Preferences
The hiring efforts of the CHA's contractors and subcontractors, shall be directed to provide training and employment opportunities to Section 3 Residents in the following order of priority:

1. Residents of the housing development or developments for which the Section 3 Covered Assistance is expended;
2. Residents of other housing developments managed by the CHA;
3. CHA Housing Choice Voucher Participants;
4. Participants in HUD Youthbuild Programs being carried out in the Chicago Metropolitan Area;
5. Other Section 3 Residents.

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 for each response to a RFS 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/documents/?CategoryId=23 or the copy included in the solicitation) as may be required.

ii. 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.** Contractor agrees to comply with the CHA's Minority and Women Disadvantaged Business Enterprise ("MBE/WBE/DBE") requirements in accordance with the CHA's MBE/WBE/DBE Policy (see http://www.thecha.org/assets/1/22/Amendment_to_Special_Conditions_-_M-WBE.pdf or the copy included in the RFP).

C. **Documenting and Reporting.** The Contractor and its subcontractors shall provide all required compliance data with respect to Contractor's MBE/WBE/DBE compliance 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.

D. **Requests for Services MBE/WBE Participation and Section 3 Requirements.** Contractor's Compliance Affidavit is attached hereto and incorporated herein as **Exhibit V**. Prior to issuance of the Notice to Proceed for a Task Order, the Contractor shall provide a MBE/WBE/DBE Utilization Plan and a Section 3 Utilization Plan that meets the CHA's policies, acceptable to the CHA, stating the degree of MBE/WBE/DBE participation and level of commitment to CHA's Section 3 Policy, and thereafter, throughout the term of this Agreement and any Task Order issued pursuant thereto, fulfill the stated levels of participation and commitment. The Section 3 Utilization Plan and the MBE/WBE/DBE Utilization Plan accepted by the CHA will be incorporated by reference as if specifically set forth into each assigned Task Order and the Contractor shall comply with its agreed commitments as set forth therein.

2.5 General and Special Conditions For Construction Contracts. The HUD General Conditions are attached hereto as **Exhibit II** and are incorporated by reference as if fully set forth herein. The Contractor agrees to fully comply with the HUD General Conditions for each

Task Order. In the event of a conflict between the terms and conditions of the HUD General Conditions and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall control. CHA's Special Conditions of the Contract for Construction (the "Special Conditions"), are attached hereto as **Exhibit III** and are incorporated by reference as if fully set forth herein. In the event of a conflict between the terms and conditions of this Agreement and the Special Conditions, the Special Conditions shall control. In the event of a conflict between the terms and conditions of the HUD General Conditions and the Special Conditions, the terms and conditions of the HUD General Conditions shall control. Contractor shall include in any subcontracts those provisions from the HUD General and Special Conditions designated therein as provisions required to flow down to subcontractors.

2.6 Drug-Free Workplace. Contractor shall establish procedures and policies to promote a "Drug-Free Workplace." Contractor shall notify all employees of its policy for maintaining a "Drug-Free Workplace" and the penalties that may be imposed for drug abuse violations occurring in the workplace. Further, Contractor shall notify the CHA if any of its employees are convicted of a criminal drug offense in the workplace no later than ten (10) days after such conviction.

2.7 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. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000 (e) note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978) and the Equal Opportunity Clause set forth in 41 CFR Part 60-1.4, which is incorporated by reference herein; 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 5/1-101 et seq., as amended, and regulations promulgated in accordance therewith, including but not limited to the Illinois Equal Employment Opportunity Clause, I11. Admin. Code Tit. 44 section 750 Appendix A, which is attached hereto as **Exhibit IV** and incorporated by reference herein; 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.

2.8 Health and Safety. Contractor shall have sole responsibility for compliance with all requirements of the Occupational Health and Safety Act (OSHA) regulations for construction with respect to Contractor's employees, including such requirements pertaining to hazard notification, training, and required equipment and work protocols.

2.9 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 obligations under the Agreement, including but not limited to, the scope of work

set forth in a Task Order, that results from circumstances 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 III TERM OF AGREEMENT

3.1 Term of Agreement. This Agreement shall commence on the Effective Date (July 1, 2015) and shall continue and remain in effect for a period of two (2) years through June 30, 2017 or until the Agreement is terminated in accordance with its terms, whichever occurs first. At the Agreement's expiration date, the Agreement's terms and conditions shall continue to remain in effect with respect to any Task Order for which a notice of award has been issued to the Contractor prior to the expiration of the contract term. The Contractor acknowledges and agrees that Task Orders may be awarded through the last day of the term of the Agreement, and that Task Order work not completed within the term of the Agreement shall continue until the entire scope of work required under an assigned Task Order has been completed in accordance with its respective terms and all Work has been accepted by the CHA.

3.2 Contract Extension Options. The CHA, at its sole discretion, may extend this Agreement for one (1) additional one (1) year option period, subject to approval of the CHA's Board of Commissioners, if required. 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 7.3 of this Agreement.

3.3 Time is of the Essence. The Contractor will complete the scope of work pursuant to a Task Order within the time limits provided in the Task Order. The Contractor acknowledges that sometimes deadlines for the scope of work are dictated by the requirements of agencies or events outside the control of the CHA, that failure by the Contractor to meet these deadlines may result in economic or other losses to the CHA, and that in those circumstances, TIME IS OF THE ESSENCE.

ARTICLE IV COMPENSATION

4.1 Amount of Compensation. This is an indefinite delivery, indefinite quantity contract as defined in the HUD Procurement Handbook (7460.8 Rev.-2) and as such, the Contractor shall be entitled to a minimum value of work of **Fifty Thousand and 00/100 Dollars ($50,000.00)** under this Agreement. The initial maximum not-to-exceed amount of compensation payable to the Contractor under the Agreement is **Five Million and 00/100 Dollars ($5,000,000.00).** The Contractor acknowledges that the CHA is not obligated to issue a Task Order to the Contractor for more than the minimum value of work set forth above, and that in order to receive more than the minimum value of work, the Contractor must be awarded Task Orders on a competitive basis as set forth in Article II. Upon the award of a Task Order and issuance of a Notice-to-Proceed to the Contractor, the CHA shall pay the Contractor the agreed Lump Sum Base Bid Total to provide the scope of work as set forth in the Task Order in accordance with the payment provisions set forth in the HUD General Conditions and CHA's Special Conditions. **The**

Contractor agrees to and waives any and all claims for payment for Work that would result in billings beyond the agreed upon Lump Sum Base Bid Total established in a Task Order without a prior written amendment to the Task Order authorizing said additional work and additional costs. The Contractor acknowledges an affirmative duty to monitor its performance and billings to ensure that the scope of work is completed within the agreed upon Lump Sum Base Bid Total as set forth in the Task Order.

4.2 Availability of Funds/Non-Appropriation. The funding for the Services described in this Agreement is subject to: (a) availability of federal funds from HUD; (b) the approval of funding by the Owner's Board of Commissioners; and (c) the Contractor's satisfactory performance of the Services. Furthermore, in the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the CHA for payments to be made under this Agreement or any Task Order issued pursuant hereto, the Owner will 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 V EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO OFFSET, SUSPENSION

5.1 Events of Default Defined. Each of the following shall constitute an event of default:

A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the CHA.

B. The Contractor's failure to perform any of its obligations under this Agreement or an assigned Task Order including, but not limited to, the following:

1. Failure to perform the Services or Work required with sufficient personnel or with sufficient material to ensure the performance of the Services or due to a reason or circumstance within the Contractor's control;

2. Failure to meet any of the performance standards set forth in this Agreement or a Task Order;

3. Failure to perform the Services or Work in a manner reasonably satisfactory to the CHA, or inability to perform the Services or Work satisfactorily as a result of insolvency, filing for bankruptcy, or assignment for the benefit of creditors;

4. Failure to promptly re-perform within a reasonable time Services or Deliverables that are rejected as erroneous or unsatisfactory;

5. Discontinuance of the Services or Work for reasons or circumstances not beyond the Contractor's control;

6. Failure to comply with a material term of this Agreement or a Task Order, including, but not limited to, the provisions concerning compliance with HUD regulations, insurance and nondiscrimination; and

7. Any other acts specifically and expressly stated in this Agreement as constituting an event of default.

C. Any change in majority ownership or majority control of the Contractor without the prior written approval of the CHA, which written approval shall not be unreasonably withheld.

D. The Contractor's default under any other agreement it may presently have or may enter into with the CHA during the term of this Agreement. The Contractor acknowledges and agrees that in the event of a default under this Agreement the CHA may also declare a default under any such other agreements.

5.2 Remedies. Upon the occurrence of any event of default in the performance of a Task Order or this Agreement which the Contractor fails to cure within thirty (30) calendar days after receipt of written notice given in accordance with the terms of this Agreement and specifying the event of default or, if such event of default cannot be reasonably cured within thirty (30) calendar days after notice, if the Contractor has failed to commence and continue diligent efforts to cure such default within thirty (30) days, the CHA may declare the Contractor in default. Whether to declare the Contractor in default is within the sole discretion of the CHA and neither that decision nor the factual basis for it is subject to review or challenge under the disputes provisions of the HUD General and Special Conditions. Written notification of the default, and any intention of the CHA to terminate the Agreement, shall be provided to the Contractor and such decision shall be final and effective upon the Contractor's receipt of such notice. Upon the giving of such notice, the CHA may invoke any or all of the following remedies:

A. The right to terminate this Agreement or a Task Order as to any or all of the scope of work yet to be performed effective at a time specified by the CHA.

B. The right to pursue any and all remedies, legal and/or equitable, available to the CHA.

C. The right to withhold all or any part of Contractor's compensation hereunder with respect to any scope of work not completed in accordance with the terms hereof prior to the termination of this Agreement.

D. The right to deem Contractor non-responsible in future contracts to be awarded by the CHA.

E. The right to take over and complete the scope of work for a Task Order or any part thereof as agent for and at the cost of contractor, either directly or through others.

If the CHA considers it to be in its best interests, it may elect not to declare default or to terminate this Agreement or a Task Order issued hereunder. The parties acknowledge that this provision is solely for the benefit of the CHA and that if the CHA permits Contractor to continue

to provide Services hereunder despite one or more events of default, the Contractor shall in no way be relieved of any of its responsibilities, duties or obligations under this Agreement nor shall the CHA waive or relinquish any of its rights.

The remedies under the terms of this Agreement or any Task Order issued hereunder are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or failure to exercise any right or power accruing upon any event of default or acquiescence therein shall impair any such right or power or be construed to be a waiver of any event of default by the CHA, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

5.3 Termination for Convenience. Notwithstanding the foregoing, the CHA may terminate the Agreement, the Services or any portion of a Task Order for convenience at any time by giving notice, in writing, to the Contractor when the CHA may deem the Agreement to be no longer in the best interests of the CHA. Contractor shall continue to render the Services until the effective date of termination. No costs incurred by Contractor after the effective date of the termination shall be allowed. The CHA shall reimburse Contractor for all of the direct and reasonable costs, as determined by the CHA, which were properly incurred through the date of termination. The Contractor shall be required to certify that the work completed to the time of termination has been performed in a professional manner and in accordance with the Task Order and this Agreement, and that the work completed may be relied upon by the CHA, its designees and any subsequent contractor retained to complete a Task Order.

5.4 No Damages for Delay. Contractor agrees that it shall make no claims against the CHA for damages, charges, interest, additional costs or fees incurred by reason of suspension of work or delays caused by the CHA with respect to any Task Order, Work or Services performed under this Agreement. Contractor's sole and exclusive remedy for suspension of work or delays caused by the CHA is an extension of time equal to the duration of the suspension or delay to allow Contractor to perform.

5.5 Right to Offset. To the extent permitted by applicable law:

A. In connection with performance under this Agreement and any assigned Task Order, the CHA may offset any incremental costs and other damages the CHA incurs in any and all of the following circumstances:

i. If the CHA terminates this Agreement or any assigned Task Order for default or any other reason resulting from the Contractor's performance or non-performance;

ii. If the CHA exercises any of its remedies under Section 5.2 of this Agreement;

iii. If the CHA has any credits due or has made any overpayments under this Agreement or any assigned Task Order.

The CHA may offset these incremental costs and any other damages by use of any payment

due for the Work completed before the CHA terminated the Agreement or before the CHA exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, the Contractor shall be liable for and must promptly remit to the CHA the balance upon written demand for it. The right to offset is in addition to and not a limitation of any other remedies available to the CHA.

B. Without breaching this Agreement, the CHA may set off a portion of the compensation due under an assigned Task Order in an amount equal to the amount of any liquidated or un-liquidated damages or claims that the CHA has against the Contractor arising out of any other agreements between the CHA and the Contractor or otherwise unrelated to this Agreement. If and when the CHA's claims against the Contractor are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the CHA will reimburse the Contractor to the extent of the amount the CHA has offset against this Agreement that is inconsistent with the determination or resolution.

ARTICLE VI REPRESENTATIONS, WARRANTIES AND SPECIAL CONDITIONS

6.1 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.

H. 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, and during the term of the Agreement will not violate the provisions of such laws and policies.

I. 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.

6.2 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.

6.3 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 is attached hereto as **Exhibit VI** and incorporated by reference as if fully set forth herein. The Contractor shall at all times comply with, and be in compliance with the Contractor's Affidavit, Contractor's Certifications and Representations of Offerors and the Equal Opportunity Clause.

6.4 Conflict of Interest

A. 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.

B. Additionally, pursuant to the conflict of interest requirements in OMB Circular A-102 and 2 C.F.R. §200.318(c)(1), 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.

6.5 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 VII GENERAL CONDITIONS

7.1 Entire Agreement. This Agreement, comprised of this Agreement and the Exhibit(s) attached hereto and incorporated herein, shall constitute the entire agreement between the parties with respect to the subject matter hereof and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Agreement that are not expressly addressed herein.

7.2 Counterparts. This Agreement may be executed by several identical counterparts, each of which shall be deemed an original and constitute one agreement binding on the parties hereto.

7.3 Amendments. No changes, amendments, modification or discharge of this Agreement, or any part thereof, shall be valid unless in writing and signed by the authorized agent of Contractor and by the Contracting Officer or the Contracting Officer's designated representative. **The CHA shall incur no liability for additional Services without a written and signed amendment to this Agreement pursuant to this Section.** Whenever in this Agreement Contractor is required to obtain prior written approval, the effect of any approval which may be granted pursuant to Contractor's request shall be prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event may approval apply retroactively to a date before the approval was requested.

7.4 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 their enforcement.

7.5 **Governing Law**. This Agreement shall be governed as to performance and interpretation in accordance with federal laws and the laws of the State of Illinois. Contractor hereby irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Contractor agrees that service of process on Contractor may be made, at the option of the CHA, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Contractor or by personal delivery on any officer, manager or director of Contractor. If Contractor brings any action against the CHA concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

7.6 **Severability**. If any provisions of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

7.7 **Interpretation**. The 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. 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.

7.8 **Assigns**. All of the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors.

7.9 **Waiver**. Whenever under this Agreement the CHA by a proper authority expressly waives in writing Contractor's performance in any respect or expressly waives a requirement or condition to either the CHA or Contractor's performance, the waiver in writing 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 under this Agreement.

7.10 CHA Inspector General. It is the duty of the Contractor and its subcontractors to cooperate with the CHA Inspector General in any investigation or hearing undertaken. All of the Contractor's subcontracts must include this provision and require agreement and compliance with the same.

ARTICLE VIII COMMUNICATION AND NOTICES

8.01 Communication Between the Parties

All verbal and written communications relating to the Work, including required reports, project schedules, specifications, and related submissions, between the Contractor and the CHA shall be through the **Chicago Housing Authority, Capital Construction Division, 60 East Van Buren St., 13th Fl., Chicago, Illinois 60605**, when required, unless otherwise specified in writing. All verbal and written communications relating to this Agreement or the TOCC Program between the Contractor and the CHA shall be through the **Chicago Housing Authority, Department of Procurement and Contracts, 60 E. Van Buren St., 13th Floor, Chicago, IL, 60605**, unless otherwise specified in writing. No verbal communication between the parties shall change any of the terms and conditions of this Agreement. Nothing stated herein shall be construed as a waiver or modification of the requirements for notice or service of process of litigation, as set forth in the Illinois Code of Civil Procedure, the Federal Rules of Civil Procedure, the local rules of the Circuit Court of Cook County, and the local rules governing the U.S. District Court for the Northern District of Illinois.

8.02 Notices

Any notices sent to the Contractor shall be mailed by certified mail, return receipt requested, postage prepaid to:

Powers & Sons Construction Company, Inc.
5040 S. State Street
Chicago, IL 60609
Attention: Kelly Powers-Baria

Notices sent to the CHA shall be mailed by certified mail, return receipt requested, postage prepaid to:

Chicago Housing Authority
60 E. Van Buren St., 12th Floor
Chicago, Illinois 60605
Attention: Chief Executive Officer

With a copy to:

Chicago Housing Authority

60 E. Van Buren St., 12th Floor
Chicago, IL 60605
Attention: Chief Legal Officer

ARTICLE IX AUTHORITY

9.1 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 Illinois Housing Authorities Act. 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances.

9.2 Contractor's Authority. Contractor has the power and authority to enter into and perform all of its obligations under this Agreement, and this Agreement, when executed, will constitute the duly authorized, valid and legally binding obligation of the Contractor. Execution of this Agreement by Contractor is authorized by a resolution of its Board of Directors and the signature(s) of each person signing on behalf of Contractor has been made with complete and full authority to commit Contractor to all terms and conditions of this Agreement.

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

CHICAGO HOUSING AUTHORITY

By: Dionna Brookens
Dionna Brookens
Deputy Chief of Procurement
Department of Procurement and Contracts

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

By: Scott Ammarell
Scott Ammarell
Chief Legal Officer

POWERS & SONS CONSTRUCTION COMPANY, INC.

By:
Print Name: MAMON POWERS, JR.
Title: CEO

EXHIBIT I

SCOPE OF WORK/STATEMENT OF WORK

A. Scope of Work.

The general contractors which are selected for a Task Order shall act as the GC for the Projects pursuant to the Contract. The GC will be required to work with the CHA's architect/engineer ("AE"), construction manager ("CM"), private property manager ("PPM"), project manager ("PM"), field manager ("FM") and other CHA representatives.

The CHA separately contracts with an AE to perform the evaluation, design, engineering, and preparation of Construction Documents describing the work required for the construction services required at the Projects. The Plans and Specifications, or scope of work for the Projects will be included within each Task Order, specifying the Work to be provided for the Project. In general, this may include, but may not be limited to, the following:

1. Code Compliance: Upgrade all aspects of the Property, apartment units, and site to comply with all codes, ordinances, and regulations in effect at the time of permitting, including but not limited to the standards of the most stringent of all accessibility codes, including the requirements of the City of Chicago Building Codes; American National Standards Institute (ANSI) A1 17.4-1986; the Uniform Federal Accessibility Standards (UFAS), 24 CFR Part 40, Appendix A; Section 504 of the Rehabilitation Act of 1973, 24 CFR Part 8; Fair Housing Act Design Standards, latest edition; and the Americans with Disabilities Act (ADA) 1990, as applicable, and all other applicable federal, state, or local building codes or requirements as related to the rehabilitation of existing structures.

2. Compliance with HUD and CHA funding procedures.

3. Compliance with HUD and CHA regulations regarding change orders.

4. Exterior Building Work:
   (a) Provide and install new doors and hardware; perform repairs; restoration of concrete and masonry and all other building envelope features.

   (b) Install new window assemblies, and replace all building sealants.

   (c) Improvements to masonry, if required on the building(s).

   (d) Install new roof if required.

   (e) Perform all necessary demolition in furtherance of any new construction or renovation.

3. Unit Construction: Restore all interior walls, floors, ceilings, carpentry, and

telephone and cable television service wiring; repair and/or replace all interior finishes; provide and install new doors and hardware, new window treatments, new kitchen and bath casework, new bathroom fixtures and accessories, new kitchen plumbing fixtures and new range, range hood with power supply, new refrigerator, new baseboard heating, new electrical wiring, kitchen and bath exhaust fans, devices and light fixtures all in full compliance with the Code Compliance requirements set forth in number 1 above. Perform all necessary demolition in furtherance of any new construction or renovation.

4. Common Areas: Repair/restore all interior walls, ceilings, carpentry, and equipment and built-in furnishings; repair and/or replace all interior finishes; provide and install new elevators and associated equipment, new doors and hardware, new baseboard heating, new electrical wiring, new light fixtures, new plumbing fixtures, accessories and partitions, new appliances and new window treatments, ensuring ingress and egress are in full compliance with the Code Compliance requirements set forth in number 1 above. Perform all necessary demolition in furtherance of any new construction or renovation.

5. Mechanical/Electrical: Provide and install new heating and domestic hot water system boilers, new domestic water systems including new supply and return risers, new sanitary and storm water drainage systems, new exhaust fans/ventilators. Perform all necessary demolition in furtherance of any new construction or renovation. Repair/restore all other systems in each building, including the entire electrical system, fire alarm system, fire sprinkler systems, security systems, and the existing utility service for water, electric and gas services; and upgrade electrical system capacity to support additional new demand.

6. Site Work: Demolish/repair/restore streets, pavement and walkways, site lighting, fencing, refuse areas, masonry screen walls, landscaping, and site drainage, ensuring ingress and egress are in full compliance with the Code Compliance requirements set forth in number 1 above.

7. Environmental: Some environmental remediation will be completed by the time of the issuance of the Notice to Proceed for each Task Order. However, items specified in the Contract Documents remain the responsibility of the GC, including but not limited to roof materials and the fire escape.

8. New Construction: Site preparation for (including the demolition of any existing structures) and construction of entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied.

B. Statement of Work

The Contractor shall provide the Work and the Services in accordance with the Master Agreement, and the individual Task Orders. The Work will be overseen by the AEs, CMs, PMs, and FMs retained by the CHA. The Services to be provided by the GC include

scheduling activities, coordination activities, construction safety activities, reporting and communications activities and project close-out activities in accordance with the Contract and the Task Orders. The GC shall perform all Work and Services in accordance with industry standards in Chicago, Illinois and with the degree of knowledge, 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 for the Task Order. The GC shall use its best efforts at all times to assure quality, timeliness, efficiency and creativity in rendering and completing the Services and the Work on schedule. Performance of the Services in a satisfactory manner shall include timely response to the CHA's requests. Time is of the essence in the Contract. All telephone calls and electronic mail shall be responded to on a timely basis but in no event more than one (1) business day.

The Services for each Task Order are generally described below for each phase of construction, and may include, but may not be limited to, the following:

1. Pre-Construction Phase. During the pre-construction phase of the Work, the GC awarded a Task Order for a Project shall:

   (a) Meet with the CHA, the AE, the CM, PM, FM, and others designated by the CHA regarding requirements for the Project.

   (b) Meet with the CHA, resident leadership (as necessary), elected officials and community organizations and the PPM in order to review the requirements of the CHA and any necessary phasing of construction for the Project.

   (c) Provide qualified professional, technical and administrative staffing; office facilities (including office space, telephone services, supplies, materials, office equipment, computers, and filing), associated administrative resources; and all necessary equipment, including vehicles, to provide all GC Services.

   (d) Participate in all meetings, telephone calls, presentations and working sessions required by the CHA and coordinate all construction work with the CHA, the AE, the CM, PM, FM and the PPM, as deemed appropriate by the CHA.

   (e) Procure trades, subcontractors, materials, equipment, suppliers, etc.

   (f) Provide a Critical Path Method (in precedence format) construction schedule for the Work and secure CHA approval as a pre-requisite to any construction activities as required in Paragraph 6 of the HUD General Conditions and the Special Conditions.

   (g) Provide strong professional service delivery, management, and development of innovative approaches and programs in construction.

   (h) Provide information for building permit applications and assist in the building permit application process.

(i) Provide information as required to the LEED AP to support the LEED certification, if necessitated by the Task Order Work.

(j) Coordinate all temporary and future utilities with applicable utility companies.

2. Construction Phase. During the construction phase of the Work, the GC shall:

(a) Provide Critical Path Method (in precedence format) construction schedule updates for the Work and secure CHA approval to any construction activities as required in Paragraph 6 of the HUD General Conditions and the Special Conditions.

(b) Furnish all necessary labor, materials, supplies, tools, equipment, and transportation necessary for performance of the Work and also furnish all necessary water, heat, light, and power not made available by the CHA.

(c) Perform on the site, and with its own employees and equipment, Work equivalent to at least twelve percent (12%) of the total amount of Work to be performed under the Contract. "Work" includes materials, workmanship, and manufacture and fabrication of components. It does NOT include the supervision of the work of subcontractors. This percentage may be reduced by a supplemental agreement to the Contract if, during performance of the Work, the GC requests a reduction and the CHA determines that the reduction would be to the advantage of the CHA.

(d) Provide supervision at all times by a competent superintendent/project manager who is satisfactory to the CHA and has authority to act for the GC.

(e) Take proper safety and health precautions to protect the Work, the workers, the CHA's residents, the public, and the property of CHA and others and be responsible for all damages to persons or property that occur as a result of the GC's fault, negligence, acts or omissions and that of its employees, agents, or subcontractors. The GC shall also be responsible for all materials delivered and Work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been accepted by the CHA under the Contract.

(f) Lay out the Work from base lines and benchmarks indicated on the drawings and be responsible for all lines, levels, and measurements of all Work executed under the Contract. The GC shall verify the dimensions before laying out the Work and will be held responsible for any error resulting from its failure to do so.

(g) Confine all operations (including storage of materials) of a Project to areas

authorized or approved by the CHA.

(h) At all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the Work and before final inspection, the GC shall: (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the CHA and all rubbish caused by or generated from the Work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the CHA; (3) perform all specified tests; and, (4) deliver the Work in complete and operating condition and in accordance with the Contract and the Task Order.

(i) Adhere to CHA's dust control protocol for all Work occurring in occupied buildings.

(j) Procure and maintain all permits, licenses, or certifications required by all governing authorities having jurisdiction over the Work

(k) Perform all activities necessary for the proper administration of the Contract, including, but not limited to, the following:

i. Participate in pre-construction conferences.
ii. Attend dispute resolution conferences when requested by the CHA.
iii. Attend various meetings related to a Project and the progress of the Work when requested by the CHA.
iv. Submit shop drawings and other materials for verification of conformance to the requirements of a Task Order.
v. Procure testing from qualified parties when required per the Task Order or as directed by the CHA.
vi. If required, or as necessary, participate in job meetings not less than once per week and record all actions at such job meetings in written minutes to be provided to the CHA on a weekly basis.
vii. Make recommendations to the CHA for solutions to special problems or changes necessitated by conditions encountered in the course of construction.
viii. Participate in all monthly pay request and construction meetings.
ix. Maintain photo documentation of weekly progress and submit with monthly pay applications.
x. Prepare a set of "as-built" drawings and provide them to the AE, both electronic and print.
xi. Provide documentation on materials and systems as required by the LEED AP, if necessary.

(l) If required, provide any needed support to the LEED commissioning agent selected by the CHA during the commissioning process. This support will include any adjustments to the mechanical systems being commissioned so that they meet the operating requirements of the commissioning plan.

(m) If necessitated by the Task Order Work, adhere to all the requirements of LEED NC v3 regarding Construction Activity Pollution Prevention (LEED credit SSP1).

(n) The construction phase will conclude upon the Contractor's completion of the Work, verification by the AE, the issuance by the Owner of a Certificate of Substantial Completion, and the issuance of the City of Chicago Department of Buildings Certificate of Occupancy.

3. Completion, Acceptance and Close-Out Phase. During the completion, acceptance and Close-out phase of the work, the GC shall:

(a) Review the Work with the AE, the CM, PM, FM and the CHA and perform the CHA's prescribed completion, acceptance and close-out activities related to the Work in a prompt and timely manner and in accordance with the schedule attached to the Task Order, including, but not limited to, the following:

i. Complete all work indicated on the punch lists prepared by the AE.
ii. Provide bound and electronic operating and maintenance manuals complying with the requirements of the Contract.
iii. Provide all equipment warranties and test reports required by the Contract.
iv. Provide written warranties of workmanship and system operation and the material guarantees delivered by all vendors in compliance with the requirements of the Contract.
v. Secure all inspection sign-offs on the permits covering areas of the Work.

(b) The completion, acceptance and close-out phase will conclude upon the issuance by the Owner of a Certificate of Completion.

C. Deliverables

1. In connection with its performance of the Services and the Work, the GC 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 AE, the CM, PM or FM are incomplete or do not meet the requirements. The CHA shall notify the GC in writing of any deficiencies the CHA identifies with respect to any Deliverable within fifteen (15) days after receipt of such Deliverable, in which event the GC shall have a period of not more than fifteen (15) days to correct such deficiency. The CHA may, at its sole and absolute discretion, accept a partial or incomplete Deliverable from the GC 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.

2. Nature and Format of Deliverables. The Deliverables to be provided by the GC 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.

   (a) 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 both digital and color photographic form.
   (b) All reports shall be submitted in triplicate, with original quality graphics (either color or half-tone) capable of color Xerox-type reproduction and electronically.
   (c) 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 Task Order.

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

4. Electronic Data Formats. The GC shall be capable of collaborating with the CHA, the AE, the CM, the PM, and the FM electronically via the systems set forth in the Task Order Solicitation. The GC shall maintain such minimum system requirements and capabilities as required for the use of any project management systems the CHA may choose to implement during the term of the Contract. The GC 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:

   (a) AutoCADD DWG or DXF for all graphics
   (b) Microsoft Word for text.
   (c) Microsoft Excel for data.
   (d) Professional Project Management version 6.2® or greater, which is CHA's software for developing and maintaining the Work Schedule. The GC shall be required to utilize such project management software the CHA may adopt during the term of the Contract for project management and document control functions, including but not limited to: preparing Requests for Information ("RFI"), preparing submittal packages, maintaining submittal registers, preparing submittal transmittals, maintaining transmittals and correspondence logs, preparing and responding to Hot List Items, preparing and responding to issues, and submission of invoices, change orders, and other documents.
   (e) Pre-Delivery Requirements for Media. Before files are placed on delivery media, the GC shall perform the following procedures:

      i. Remove all extraneous graphics outside the border area and set active

parameters to standard setting or those in the seed file.

ii. Assure all reference files are attached without device or directory specifications.

iii. 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).

iv. Include all files, graphic and non-graphic, required for the Project.

v. Assure that none of the files are device or directory dependent.

vi. Document all non-standard fonts.

vii. 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 GC shall supply the CHA with a copy of the actual software used for virus checking and removal).

5. Accounting Statements. The GC shall submit separate statements for costs incurred at the Property, as required pursuant to the Contract.

EXHIBIT II

GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS
HUD FORM 5370

General Conditions for Construction Contracts - Public Housing Programs

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

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

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.36, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).
The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.
Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit.
The information requested does not lend itself to confidentiality.
HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number.

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1. Definitions

(a) "Architect" means the person or other entity engaged by the PHA to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a PHA uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.

(b) "Contract" means the contract entered into between the PHA and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders (form HUD-5370), these General Conditions of the Contract for Construction (form HUD-5370), the applicable wage rate determinations from the U.S. Department of Labor, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.

(c) "Contracting Officer" means the person delegated the authority by the PHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the PHA in all dealings with the Contractor.

(d) "Contractor" means the person or other entity entering into the contract with the PHA to perform all of the work required under the contract.

(e) "Drawings" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.

(f) "HUD" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the PHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the PHA for payment to the Contractor. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.

(g) "Project" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.

(h) "PHA" means the Public Housing Agency organized under applicable state laws which is a party to this contract.

(j) "Specifications" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.

(l) "Work" means materials, workmanship, and manufacture and fabrication of components.

2. Contractor's Responsibility for Work

(a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the PHA pursuant to the clause entitled Availability and Use of Utility Services herein.

(b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least [ ] (12 percent unless otherwise indicated) of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the PHA.

(c) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.

(f) The Contractor shall confine all operations (including storage of materials) on PHA premises to areas authorized or approved by the Contracting Officer.

(g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.

(h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

3. Architect's Duties, Responsibilities, and Authority

(a) The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.

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

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

(1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor's designated representative at the site;

(2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;

(3) Reviewing and making recommendations with respect to - (i) the Contractor's construction progress schedules; (ii) the Contractor's shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor's price breakdown and progress payment estimates; and,

(4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

4. Other Contracts

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

Construction Requirements

5. Pre-construction Conference and Notice to Proceed

(a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the PHA, its Architect, and other interested parties convened by the PHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The PHA will provide the Contractor with the date, time, and place of the conference.

(b) The contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

6. Construction Progress Schedule

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled Inspection and Acceptance of Construction, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the PHA. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

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

7. Site Investigation and Conditions Affecting the Work

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

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

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

8. Differing Site Conditions

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

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

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

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

9. Specifications and Drawings for Construction

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

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

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

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

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

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

(g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be

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

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

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

10. As-Built Drawings

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

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

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

11. Material and Workmanship

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

(b) Approval of equipment and materials.

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

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

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

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

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

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

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

12. Permits and Codes

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

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

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

13. Health, Safety, and Accident Prevention

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

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

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

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

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

14. Temporary Heating

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

15. Availability and Use of Utility Services

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

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

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

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

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

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

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

(e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.

(f) New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.

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

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

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

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

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

17. Temporary Buildings and Transportation of Materials

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

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

18. Clean Air and Water

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

19. Energy Efficiency

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

20. Inspection and Acceptance of Construction

(a) Definitions. As used in this clause -

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

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

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

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

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

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

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

(f) The PHA may conduct routine inspections of the construction site on a daily basis.

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

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

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

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

21. Use and Possession Prior to Completion

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

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

22. Warranty of Title

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

23. Warranty of Construction

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

(b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—
  (1) The Contractor's failure to conform to contract requirements; or
  (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.

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

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

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

(f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
  (1) Obtain all warranties that would be given in normal commercial practice;
  (2) Require all warranties to be executed in writing, for the benefit of the PHA; and,
  (3) Enforce all warranties for the benefit of the PHA.

(g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

(h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the repair of any damage that results from any defect in PHA furnished material or design.

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

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

24. Prohibition Against Liens

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

Administrative Requirements

25. Contract Period

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

26. Order of Provisions

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

27. Payments

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

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

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

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

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

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

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

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

_____
Name:

_____
Title:

_____
Date:

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

(g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments.

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

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

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

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

(k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in nowise impair the obligations of any surety or sureties under any bonds furnished under this contract.

28. Contract Modifications

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

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

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

29. Changes

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:
(1) In the specifications (including drawings and designs);
(2) In the method or manner of performance of the work;
(3) PHA-furnished facilities, equipment, materials, services, or site; or,
(4) Directing the acceleration in the performance of the work.

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

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

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

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

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

(1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs when size of change warrants revision.

(2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.

(3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change. The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.

(g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.

(h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.

(i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.

(j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

30. Suspension of Work

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

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

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

31. Disputes

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

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

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

(d) The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.

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

32. Default

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

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

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

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

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

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

33. Liquidated Damages

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

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

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

34. Termination for Convenience

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

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

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

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

35. Assignment of Contract

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

36. Insurance

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

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

(2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than $ _____ [Contracting Officer insert amount]

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

(3) Automobile Liability on owned and non -owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than $ _____ [Contracting Officer insert amount] per occurrence.

(b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

(c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

37. Subcontracts

(a) Definitions. As used in this contract –

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

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

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

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

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

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

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

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

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

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

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

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

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

39. Equal Employment Opportunity

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41. Interest of Members of Congress

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

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

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

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

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

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

44. Royalties and Patents

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

45. Examination and Retention of Contractor's Records

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

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

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

46. Labor Standards - Davis-Bacon and Related Acts

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

(a) Minimum Wages.

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

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

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

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

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

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

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

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

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

(c) Payrolls and basic records.

(1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

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

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

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

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

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

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

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

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

(2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under

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

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

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

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

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

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

(i) Certification of eligibility.

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

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

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

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

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

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

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

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

47. Non-Federal Prevailing Wage Rates

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

48. Procurement of Recovered Materials.

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

EXHIBIT III

SPECIAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING

These Special Conditions of the Contract for Construction amend and supplement the General Conditions for Construction Contracts – Public Housing Programs (Form HUD-5370). The paragraph numbers and headings track those found in the General Conditions, and all paragraph and subparagraph references track those found in the General Conditions as well. Where these Special Conditions supplement the text in the General Conditions, the paragraph and subparagraph numbering picks up where the numbering leaves off in the General Conditions. Where there are no amendments, additions, or supplements to the language in the General Conditions, the paragraph number and heading from the General Conditions appears below, as a place holder, without any additional text.

1. Definitions

(b) The term "Contract" at Paragraph 1(b) of the General Conditions is amended to also include the following: All written modifications, amendments and change orders to this Contract, all Specification Bid Form pages when accepted by the CHA, "Special Conditions of the Contract for Construction", "HUD General Conditions for Construction Contracts – Public Housing Programs (Form HUD-5370)", the "Work Schedule" as described in Paragraph 6 of "HUD General Conditions for Construction Contracts – Public Housing Programs (Form HUD-5370)" and 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 Bid Bond, the Performance and Payment Bond or Bonds or other assurances of completion, "Technical Specifications", and drawings, if any, Contractor's Affidavit or any other affidavits, certifications or representations the Contractor is required to execute under the Contract with the CHA, MBE/WBE/DBE and Section 3 Utilization Plans and Instructions to Contractors regarding Affirmative Action under Executive Orders 11246 and 11914, all inclusive.

(c) The term "Contracting Officer" at Paragraph 1(c) of the General Conditions is amended by the addition thereto of the following language: "The Contracting Officer may designate and delegate in writing deputy and sub-contracting officers with the same powers as the Contracting Officer. In the event the Contractor receives conflicting instructions or decisions from the Contracting Officer or one of his or her designated deputy or sub-contracting officers, the authority of the Contracting Officer shall prevail."

(h) The term "PHA" at Paragraph 1(h) of the General Conditions is amended to be interchangeable with the terms "Chicago Housing Authority", "CHA", or "Authority" as used in the Contract.

(l) The term "Work" at Paragraph 1(l) of the General Conditions is amended by the addition thereto of the following language: "Work further means the use of material, manpower, supplies, equipment, workmanship, components, time and money to perform design, construction and administration necessary for completion of the Scope."

(m) The terms "day" or "days" mean calendar days, unless otherwise specified. However, if the due date for any action falls on a Saturday, Sunday, or CHA holiday, said action shall be due on the immediately following business day.

(n) The term "Material" or "material", as used in this Contract, includes, but is not limited to, raw materials, parts, items, components, supplies, and end products used to construct and complete the Project.

(1) "New Material", as used in this Contract, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.

(2) "Other than new material" or "used material", as used in this Contract, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned materials.

(o) The term "Work Site" shall mean the physical location where the Work is performed.

(p) The term "Baseline Work Schedule" shall mean the complete initial CHA approved construction schedule prepared by the Contractor showing the construction plan prior to the start of construction, based on the contract schedule exhibit. The Baseline Work Schedule will serve as the baseline against which schedule changes will be analyzed.

(q) The term "Basis of Schedule" shall mean the CHA approved document prepared by the Contractor describing the development of the Baseline Work Schedule.

(r) The term "Fragnet" shall mean a subnet of the overall project network schedule. A fragnet is made up of related work activities to allow greater detail and better control of the work. It is the sequence of new activities that are proposed to be added to the existing schedule to illustrate changes to the whole network.

(s) The term "Lag" shall mean the time delay between the time when an activity ends and a successive activity ends.

(t) The term "Lead" shall mean the time delay between the first activity starting and the successive activity beginning.

(u) The term "Schedule Update" shall mean the process of recording progress by moving the data date to the successive month to reflect the activities completed during the working period. Upon approval of the Schedule Update, this schedule will become the new Target Schedule.

(v) The terms "Special Project Delay Report" or "SPDR" shall mean the documents demonstrating a delay to the project schedule. A special delay report consists of a schedule including fragnets and a narrative report describing the delay. These documents serve as the basis for a contract extension request.

(w) The term "Recovery Schedule" shall mean a schedule showing special efforts and adjustments to expedite the remaining activities and recover lost time in an attempt to meet the existing contractual milestone(s). A recovery schedule is required when the projected finish date is no longer showing a timely completion. A recovery schedule shall not incorporate the float owned by the CHA.

(x) The term "Substantial Completion" shall mean the stage in the progress of work when the work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. (Section A.9.8.1 of the American Institute of Architects).

(y) The term "Target Schedule" shall mean the approved Baseline Work Schedule or Schedule Update to which all subsequent schedules are compared. Upon approval,

each schedule will become the Target Schedule for the ensuing month.

(z) The term "Work Breakdown Structure" or "WBS" shall mean the CHA approved hierarchical listing of products, components, work tasks, and services that are to be completed for the Work. The WBS defines, organizes and graphically displays the entire scope of work, including submittals and procurements to complete the project.

(aa) The term "Working Days" or "Business Day" shall mean Monday through Friday but does not include federal and state holidays.

(bb) The term "Work Schedule" shall mean a critical path method (CPM) schedule that includes all engineering, procurement, construction and testing activities covering the time from the start date through final completion.

(cc) This Paragraph 1 shall be included in all subcontracts at any tier.

2. Contractor's Responsibility for Work

3. Architect's Duties, Responsibilities and Authority

4. Other Contracts

5. Preconstruction Conference, and Notice to Proceed (NTP)

(c) The Contractor shall commence Work under this Contract with due diligence on the date specified in the written Notice to Proceed ("NTP"), to be issued by the CHA. In the event that the Contractor is unable to commence construction on the date set forth in the NTP through no fault of its own, the delay and time extension provisions set forth in Paragraph 30(f) shall apply. The CHA's Contracting Officer may, in his or her sole discretion, issue written authorization for costs to be incurred prior to the issuance of the NTP, but only to the extent and subject to the conditions of such authorization.

(d) A preconstruction conference may be called by the CHA prior to commencement of the Work/Project at a place and time selected by the CHA for the purpose of reviewing the Work and the Work Schedules, and to impart to the Contractor information regarding Davis-Bacon Prevailing Wage procedures, Minority, Women and Disadvantaged Business participation and resident hiring, CHA capital construction procedures and methods, and to clarify any questions that may then exist. The absence of such a conference shall not excuse the Contractor's failure to perform any of its obligations under the Contract.

(e) The CHA may require a partnering session be held prior to initiation of construction. Partnering sessions will be conducted by a third party skilled in the process of partnering at a neutral location that is reasonably convenient to the CHA and the Contractor. The Contractor shall make its project manager, superintendents, and the senior Work Site representative of each subcontractor available for the full time of the partnering session. The CHA will make its architect, project manager, field manager, property manager, and necessary government officials available for the full time of the partnering session. The cost of the partnering session will be borne by the Contractor.

(f) Periodic meetings may be called at a place and time fixed by the CHA which shall be attended by the Contractor for the purpose of reviewing the Contractor's progress or

any other matters regarding the Project that may appear to require the Contractor's expertise or knowledge for purposes of discussion and resolution. If called, such meetings shall be attended by the Contractor at no additional cost to the CHA.

(g) In the event that the testimony of or consultation with the Contractor is required in any legal or dispute resolution proceeding in connection with claims brought against or prosecuted by the CHA, the Contractor agrees to appear as a witness or act as a consultant on behalf of the CHA in return for reasonable compensation.

(h) This Paragraph 5 shall be included in all subcontracts at any tier.

6. Construction Progress Schedule

The Paragraph Heading of Paragraph 6 is amended to read as follows:

6. Construction Progress Schedule and Construction Cash Flow

(d) Construction Progress Schedule

(1) Based on the CHA's proposed start and completion date(s) set forth in the Specification Bid Form pages, the Contractor shall prepare a Work Schedule covering the time from the start date through final completion.

(2) The use of CPM schedules by the Contractor is strictly required for assurance of schedule integrity. In general, the Contractor shall develop and use a CPM schedule that contains sound, thorough logic and that consistently reflects the true scope and status of the work. The Work Schedule shall show all activities and critical path(s). Schedule information shall consist of: detailed task (e.g., activity) descriptions, durations, network logic, preceding/succeeding tasks, total float, free float, and holidays.

(3) Work Schedule float shall belong to the CHA.

(4) The Contractor shall use Oracle Primavera P6 Professional Project Management version 6.2 or greater. However, Contractor shall utilize such other project management software the CHA may implement during the term of the Contract.

(5) Baseline Work Schedule Development

(i) Prior to mobilization to the Project Site, and no later than ten (10) working days after receipt of the Notice to Proceed, the Contractor shall submit three (3) copies of the Baseline Work Schedule. If requested by the CHA, the Contractor shall participate in a meeting to discuss, review and evaluate the proposed Baseline Work Schedule.

(ii) The CHA shall have the right to withhold payment to the Contractor (inclusive of both General Conditions Reimbursement and Fee) in the event that a Baseline Work Schedule has not been submitted and approved by the CHA within thirty (30) days after the Notice of Award or prior to submittal of the first application for payment.

(iii) The Baseline Work Schedule shall include all work to be performed per the contract, including submittals, material fabrication and delivery, and construction and closeout activities.

(iv) The Baseline Work Schedule shall be developed using Critical Path Method (CPM) scheduling technique in precedence format with a single logical start and finish milestone.

(v) The Baseline Work Schedule shall provide a step by step illustration of the entire Scope of Work from Notice to Proceed through Final Completion / Asset Management Signoff and closeout activities.

(vi) The Baseline Work Schedule shall include all contractor, subcontractor, and sub-subcontractor work activities, the activities of Contractor, Contractor's other contractors and other third party interfaces, including but not limited to: receipt of CHA provided materials, information, permits, reviews, approvals, tests, vendor technical support, delivery and decision points. The Baseline Work Schedule shall:

(a) Be coded with the approved WBS for all activities of the Work (including engineering, procurement, construction, and closeout);
(b) Be consistent with the contract schedule exhibit;
(c) Show the Critical Path;
(d) Represent Contractor's best judgment as to how the Contractor shall complete the Work in compliance with the contract schedule exhibit, keeping in mind the sequencing of work to minimize tenant interruptions.

(vii) The Baseline Work Schedule must be activity coded with appropriate phase of work, location, work type, and contractor name – including subcontractors and second tier contractors.

(viii) The Baseline Work Schedule must be cost loaded with the costs as described in the schedule of values at the activity level. It is recommended to cost load every activity in the schedule with a lump sum amount.

(ix) The level of detail of the Baseline Work Schedule shall be of sufficient detail to satisfy the CHA's requirements for progress monitoring and coordination interfaces with other parties.

(x) The Baseline Work Schedule shall be used to assist contractors and the CHA to mitigate and minimize delays.

(xi) All non-working periods at any location where work is performed such as holidays and non-working periods shall be defined during the development of the Baseline Work Schedule and incorporated into the planning software calendar.

(xii) The Contractor shall include all CHA standard holidays in the development of the Baseline Work Schedule referenced below:

(a) New Year's Day
(b) Martin Luther King Jr. Day
(c) President's Day
(d) Memorial Day
(e) Independence Day
(f) Labor Day
(g) Columbus Day
(h) Veteran's Day

(i) Thanksgiving Day
(j) Day after Thanksgiving Day
(k) Christmas Day

(xiii) The Contractor shall include the Baseline Work Schedule activities and periods representing the time required by the CHA to complete review and approval for agreed deliverables / submittals.

(xiv) The Contractor shall provide a Basis of Schedule narrative with the Baseline Work Schedule submittal. This document shall include:

(a) Project description
(b) Scope of work broken down by WBS
(c) Description of the sequence of Work
(d) Key Project dates and milestones
(e) Logic of construction sequences
(f) Detail of calendars used
(g) Critical path and low float path description and logic explanation
(h) Schedule threats
(i) Weather Windows (scheduled weather days)
(j) Issues and Concerns
(k) Assumptions
(l) Exclusions

(xv) Baseline Work Schedule Narrative should contain a signed acknowledgement of accuracy by the Contractor's assigned project manager and field superintendent. The Contractor shall prepare and submit the Basis of Schedule and Baseline Work Schedule to the CHA no later than 10 days after the Notice to Proceed date to the following CHA representatives at a minimum: project manager, field manager, and scheduler.

(xvi) The final contractual milestone on the schedule shall be the project completion activity with the nomenclature of "Final Completion / Asset Management Signoff" in the activity description.

(xvii) Closeout activities shall be indicated as in the contract exhibit and the following activities shall be complete by the Final Completion / Asset Management Signoff:
(a) Collect Permits and Inspections
(b) Finalize As-Built Drawings
(c) Complete Project, Warranty and O&M Manuals
(d) User Training and Instructions
(e) Contractor Demobilization
(f) Submit Closeout Documentation to the Architect.

(xviii) Closeout activities which are indicated beyond the milestone "Final Completion / Asset Management Sign-off (address)" shall be identified as following:
(a) Architect's Review – 4 week duration
(b) CHA Review – 1 week duration
(c) Prepare Final Payment – 1 week duration
(d) (Address) Project Complete – Finish Milestone

(xix) The Baseline Work Schedule shall be delivered to the CHA in native file format and .PDF format for review and approval.

(xx) The Baseline Work Schedule is subject to approval by the CHA per the terms of this section. If requested by the CHA, the Contractor shall participate in a meeting to discuss, review, and evaluate the proposed Baseline Work Schedule.

(xxi) Once the Basis of Schedule and Baseline Work Schedule are approved by the CHA, they shall not be modified in any way without the written approval of the CHA.

(xxii) In addition to the requirements in this section, the Contractor is to follow all requirements in development of the Baseline Work Schedule as are outlined in section 6(d)(6), "Additional Work Schedule Requirements"

(6) Additional Work Schedule Requirements

(i) The Contractor shall follow the industry best practices in developing and maintaining the required schedules, including but not limited to:
- (a) No open ended activities
- (b) No use of start constraints
- (c) Minimal use of finish constraints
- (d) No constraints that over-ride logic
- (e) No negative leads and no lags
- (f) The use of only FS, SS, or FF relationships
- (g) Minimization and justification for the number of calendars used
- (h) Logic consistency throughout the schedule
- (i) Submittal and Delivery Tasks
  - (1) Should include a level of detail to each task and subcontractor.
  - (2) Material fabrication and delivery durations shall be documented on the construction schedule if it meets the following requirements:
    - If material fabrication and delivery has a duration of 15 days or more on a project with less than a 180 calendar day duration.
    - If material fabrication and delivery has a duration of 25 days or more on projects with a duration of 181 through 365 days.
    - If material fabrication and delivery has a duration of 30 days or more on projects with a duration of 365 days or more.
  - (3) Material Submittal and Delivery items with less than 5 days of float shall be shown on the construction schedule
  - (4) 10 working days shall be allocated for CHA/Architect submittal review activities
- (j) Unique and specific activity descriptions that clearly define the task
- (k) Use of retained logic as the scheduling method
- (l) The number of activities on the critical path must not exceed 30% of project schedule activities on IFB projects.
- (m) Projects with a duration less than 180 calendar days must not have construction activities with a greater than 10 day duration
- (n) Projects with a duration between 181 and 364 calendar days must not have construction activities with a greater than 15 day duration.
- (o) Projects with a duration greater than 365 calendar days must not have construction activities with a greater than 20 day duration.

(p) All material submittal, fabrication and delivery activities shall have a duration that is reasonable considering the level of detail of the schedule.
(q) All construction related activities shall have a duration that is reasonable considering the level of detail of the schedule.
(r) All activities, (with the exception of cure time), shall have their duration estimate expressed in working days.
(s) All tasks should be geographically separated (floors or apartments)
(t) If an activity occurs in two or more non-continuous time frames, enter a separate activity for each occurrence
(u) Tasks requiring an expenditure of time, but not other resources (drying, curing, setting)
(v) Tasks performed by different trades or work crews
(w) Tasks performed by different subcontractors
(x) Tasks performed by other contractors having an impact on the work
(y) Inspection, approval and review tasks by the CHA, Architect, or other governmental agencies having an impact on the work including, but not limited to:
  (1) ADA Inspection
  (2) 50% Inspection
  (3) 95% Inspection
  (4) 100% Inspection
  (5) Asset Management Inspection
  (6) Environmental
  (7) City of Chicago Inspections

(ii) The schedules shall be named uniquely for each project following the nomenclature listed below:
- Contract number 00 (baseline work schedule) i.e. 17000 00
- Contract number 01 (first update) i.e. 17000 01
- Contract number 02 (second update) i.e. 17000 02
- Contract number 03 (etc ...) i.e. 17000 03
- Contract number AB (As Built Schedule) i.e. 17000 AB

All schedules which are submitted as a revision must be succeeded with an R_ in the name of the schedule. i.e. 17000 02 R1

(iii) The .PDF schedule file shall include the following columns as a minimum:
(a) Activity ID
(b) Activity Description
(c) Early Start
(d) Early Finish
(e) Original Duration
(f) Remaining Duration
(g) Total Float
(h) Budgeted Cost
(i) Earned Value
(j) Logic Ties (shown on the Gantt Chart)

(iv) Revisions necessary as a result of schedule review or meeting shall be submitted for approval to the CHA and its project manager within five working days of receipt of the rejected schedule review or meeting.

(v) The construction schedule should show the "Final Completion / Asset Management Signoff (address)" as the final activity which shall match the contractual end date. This milestone shall contain a "finish on or before" constraint which will be the same as the contractual finish date. This constrained date may change in the event of board or change order committee approval of a contract modification.

(7) Weekly Schedule Update

(i) The Contractor shall provide the CHA with a weekly update of the Work Schedule as part of the weekly progress meetings at the Project site. The weekly update shall provide a report including, at a minimum, the following:
- (a) Three hardcopies and an electric copy in .pdf format provided via email of a chart showing activities of the previous week and a three week look-ahead.
- (b) Lists of major activities completed during the preceding week
- (c) Lists of activities planned to start during the next week
- (d) Lists of critical items requiring action of the Architect or the CHA.
- **(e) Three week look-ahead schedules shall be generated directly from the project schedule.**

(8) Monthly Schedule Update

(i) Not later than the 5th working day of the month, the Contractor shall present the owner with a document entitled "Monthly Schedule Update".

(ii) All planning, scheduling and progress measurement documents developed by the Contractor pursuant to this document shall be provided to the CHA in native file format and .PDF format on a monthly basis, with the data date of the schedule falling on the first day of the successive month.

(iii) This report should include at minimum:
- (a) A bar chart of the network showing all activities and highlighting the critical path.
- (b) A bar chart of the network showing activities of the last two weeks and a three week look-ahead
- (c) A critical path schedule isolating only activities highlighted on the critical path.
- (d) A schedule narrative including:
  - (1) Whether the project is proceeding in accordance with the Target Schedule
  - (2) Comments on the project critical path
  - (3) Variance Chart for Contractual and Non-Contractual Milestones: i.e.

Milestone Name	Baseline Early/Actual Finish	Update Early/Actual Finish	Variance
Notice to Proceed	2/1/2017	2/1/2017 A	0 days
Floor 3 Finish	5/6/2017	5/9/2017 A	3 days
Floor 2 Finish	6/8/2017	6/9/2017	1 day
Floor 1 Finish	8/16/2017	8/16/2017	0 days

Exterior Finish	8/12/2017	8/12/2017	0 days
Final Completion / Asset Management Signoff 123 Name of Street	8/22/2017	8/22/2017	0 days

(4) List of activities completed in the preceding month
(5) List of activities planned to start during the next month
(6) List of critical items requiring action of the Architect or CHA
(7) Proposed change order status log.
(8) All Changes in logic
(9) Added or deleted activities
(10) Change in original duration
(11) Change in critical path. A detailed discussion of the critical path is required.
(12) Change in asset management signoff date(s)
(13) Change in calendars
(14) Activity description change
(15) Change in resources/costs

(iv) The schedule update shall not contain any of the following deficiencies:
(a) Any change to items 7 – 14 above that are not listed in the narrative
(b) Drop in activity % complete
(c) Diminished Earned Value
(d) Deleted Actual Starts
(e) Deleted Actual Finishes
(f) Activities statused beyond the project data date

(v) Any changes to scope shall be accompanied with a change to the budgeted cost to complete the project. This should match the costs associated with the bulletin or change order.

(vi) In the case of the schedule showing the project not completing within 15 calendar days of the final completion / asset management signoff date(s), additional documentation may be required for the approval of the schedule update.
(a) A Recovery Schedule – See Paragraph 6(d)(9), "Compliance with Contractual Milestones"
(b) A Special Project Delay Report (SPDR) – See Paragraph 6(d)(9), "Compliance with Contractual Milestones"

(vii) In addition to the requirements in this Paragraph 6(d)(8), the Contractor is to follow all requirements in development of the Baseline Work Schedule as are outlined in Paragraph 6(d)(6),"Additional Schedule Requirements"

(9) Compliance with Contractual Milestones

(i) There shall be no changes in the contractual milestone(s) unless a change order is executed.

(ii) A recovery schedule should be developed when modifying the schedule logic can bring the project back on schedule. A SPDR is developed when changing the logic will not bring the project back on schedule and a revised completion date must be set through the issuance of a time extension. A recovery schedule cannot incorporate the float owned by the CHA.

(iii) Recovery Plan

(a) If the contractual milestones can be reached by expediting the remaining activities in the schedule, a recovery plan should be provided.

(b) A recovery plan must contain all the information required in a Monthly Schedule Update; however, it must include the detailed narrative showing what the Contractor changed to get the project back on schedule. It shall set forth the Contractor's plans for restoring the work to the Target Schedule and mitigating any adverse effects of the projected delay.

(iv) Special Project Delay Report

(a) A Special Project Delay Report is required when, after delay mitigation, the contractual milestone "Final Completion / Asset Management Sign-off" cannot be brought within 15 calendar days of the contractual end date.

(b) Within five days of any event for which a Special Project Delay Report is required, the Contractor shall submit a written report describing the delay and how the schedule has been adversely affected.

(1) Include detailed explanation of the delay;

(2) Analyze who is responsible for the delay;

(3) Show the Contractor's plan to mitigate any additional; adverse effects of the projected delay; and,

(4) Include the number of days requested toward the contractual end date

(c) Within 10 days of any event for which a Special Project Delay Report is required, the Contractor shall submit a construction schedule using the most recently approved schedule update. The schedule shall follow these requirements

(1) Show a "fragnet" describing the delay in a separate WBS

(2) The "fragnet" should be logically linked into the construction schedule as described in the Special Project Delay Report narrative.

(d) The Special Project Delay Report cannot be used as a standalone monthly schedule update.

(e) The CHA shall review each Special Project Delay Report to determine if it fulfills the requirements of this paragraph and shall determine, in its sole discretion, whether the delay specified (or any part thereof) is an excusable event of delay and the number of days that should be approved.

(f) Upon acknowledgement of the SPDR by the CHA, any time extension reflected in the Special Project Delay Report must also be reflected in an attempt to mitigate this delay in the following schedule update.

(g) The Contractor's failure to submit a Special Project Delay Report in a timely matter in accordance with this paragraph shall constitute a full and final waiver of any and all rights whatsoever to a change in the Work Schedule or the Final Completion date for such delay event, and the Contractor shall not be entitled to any relief or any modifications to the Work Schedule.

(10) As Built Schedule

(i) The Contractor shall submit an as built schedule upon the successful completion of the contractual milestone "Final Completion / Asset Management Signoff"

(ii) The update shall follow the same procedure as described in Paragraph 6(d)(8) above, entitled Monthly Schedule Update.

(iii) The data date for this update shall be the same date as the final Asset Management Sign-Off Milestone.

(e) Construction Cash-Flow

(1) Construction Cash-Flow

The Contractor shall prepare a Construction Cash-Flow that is based on the anticipated expenditures resulting from the level-of-effort depicted in the Contractor's Work Schedule.

The Contractor shall submit the Construction Cash-Flow in spreadsheet format using Microsoft Excel© software.

The information in the Construction Cash-Flow shall be decomposed to at least the following level of detail:

(i) Monthly projections for the remaining months of the current calendar year.

(ii) Quarterly projections for the remaining contract duration.

(iii) Construction Cash-Flow shall be provided for each building included in the scope of work under this agreement.

(iv) Construction Cash-Flow shall indicate anticipated expenditures due to Change Orders.

(2) Submittal and approval of Baseline Construction Cash-Flow

Prior to mobilization to the Project Site, and no later than five (5) days after receipt of the Notice to Proceed the Contractor shall submit three (3) copies of the complete initial construction cash-flow ("Baseline Construction Cash-Flow"). Two (2) copies shall be submitted in hard copy (i.e., paper) form and one (1) copy in electronic media (Microsoft Excel©). The Baseline Construction Cash-Flow is subject to approval by the CHA per the terms of this Paragraph 6. If requested by the CHA, the Contractor shall participate in a meeting to discuss, review and evaluate the proposed Baseline Construction Cash-Flow. Revisions necessary as a result of this review and evaluation shall be submitted for approval to the CHA and its designated project manager within fifteen (15) calendar days of such meeting. After approval by the CHA, the approved Baseline Construction Cash-Flow shall then become the schedule utilized by the Contractor pursuant to the terms of the Agreement. The Baseline Construction Cash-Flow will serve as the baseline against which all payments will be analyzed. CHA shall have the right to withhold payment to the Contractor (inclusive of both General Conditions Reimbursement and Fee) in the

event that a Baseline Construction Cash-Flow has not been submitted to and approved by the CHA within thirty (30) days after the Notice of Award or prior to submittal of the first application for payment.

(3) Submittal and approval of Monthly Updates of the Construction Cash-Flow

Progress meetings to discuss progress of the Work and Payment shall include a monthly meeting at the Project Site, in which the Contractor shall describe the current status of the Work and any proposed revisions and adjustments to the Construction Cash-Flow for the CHA's review and approval. Not more than one (1) week after such meeting and in no event later than the fifth (5th) day of the month, the Contractor shall submit an updated Construction Cash-Flow reflecting actual construction progress, including a comparison to the Baseline Construction Cash-Flow and provide a report including, at a minimum, the following (the "Monthly Report"):

(i) An electronic version of the updated Construction Cash-Flow, with status date being the last working day of the previous month, in electronic scheduling media (Microsoft Excel©).

(4) The Contractor acknowledges and agrees that the requirements with respect to the Construction Cash-Flow in this Paragraph are in addition to the breakdown of the total contract price described in Paragraph 27.

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

7. Site Investigation and Conditions Affecting the Work

(c) This Paragraph 7 shall be included in all subcontracts at any tier.

8. Differing Site Conditions

9. Specifications and Drawings for Construction

10. As-Built Drawings

11. Material and Workmanship

(d) Any decision by the CHA as to equality of materials shall be final and not subject to arbitration or other manner of dispute resolution.

(e) Unless this Contract specifies otherwise, the Contractor represents that the material, including any residual inventory and former government surplus property identified under the Other Than New Material, Residual Inventory, and Former Government Surplus Property clause of this Contract, are new or are not of such age or so deteriorated as to impair their usefulness or safety.

(f) If the Contractor believes that furnishing Other Than New Material will be in the CHA's

interest, the Contractor shall so notify the Contracting Officer in writing and request written authority to use such Material. The Contractor's written notice shall include the reasons for the request along with a proposal for any consideration, cost reductions, or credits due the CHA if the Contracting Officer authorizes the use of Other Than New Material.

12. Permits and Codes

13. Health, Safety and Accident Prevention

(f) The Contractor expressly agrees to be solely responsible for the enforcement of all jobsite and project safety laws, rules, policies and programs applicable to its provision of the Work with respect to its officers, directors, employees, agents, representatives, invitees and subcontractors (collectively "Contractor's Personnel") and shall defend, indemnify, and hold harmless the CHA from all actions and claims brought by Contractor's Personnel as a result of the Contractor's accidental, willful, or negligent violation of said safety laws, rules, policies and programs and for actions or claims pursuant to injury or death sustained by Contractor's Personnel unless such injury or death was solely and exclusively caused by the CHA.

(g) The CHA specifically disclaims any authority or responsibility for general Work Site safety and safety of persons other than CHA employees.

(h) The Contractor shall maintain at its expense such barricades and temporary fencing and security guard services as are necessary to protect CHA residents, CHA employees and the general public, as well as the Work Site from unauthorized intrusion, vandalism and other criminal activity during the course of the Work. Such security measures shall not include hazardous activities, the use of guard dogs or electrified fences. Such security measures implemented by the Contractor shall remain in force until the Work is accepted by the CHA, and the CHA directs in writing that such security measures are no longer required and may be removed.

(i) The Contractor shall provide and maintain Work environments, programs and procedures, which shall accomplish the following:

(1) Safeguard the Contractor's Personnel, CHA residents, the public, and the CHA's personnel, property, materials, supplies, and equipment exposed to the Contractor's operations and activities;

(2) Avoid interruptions of government operations and delays in Project completion dates; and

(3) Control costs in the performance of this Contract.

(j) If this Contract is for construction or dismantling, demolition, or removal of improvements, the Contractor shall do the following:

(1) Provide appropriate safety barricades, signs, and signal lights at the Work Site;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR part 1926 and 29 CFR 1910; and

(3) Ensure that any additional measures the Contracting Officer, the PM, or the CM determines to be reasonably necessary for the purposes are taken.

(k) If this Contract is for construction or dismantling, demolition or removal of CHA improvements, the Contractor shall comply with all safety, health and environmental provisions governing the Work Site, including, but not limited to, OSHA, EPA, DOT, State of Illinois, and City of Chicago regulations, statutes, and standards.

(l) Whenever the Contracting Officer or its representative becomes aware of any noncompliance with these requirements or any condition that poses a serious or imminent danger to the health or safety of the public, CHA residents, or CHA personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the Work Site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any extension of the Work Schedule as a result of any Stop Work order issued under this clause. In the event of a Stop Work Order issued under this clause, the Contractor shall be responsible for all damages to or claims made against the CHA and/or any of the Contractor's or the CHA's subcontractors as a result of time delay, loss of materials, material price increases, and/or loss of productivity.

(m) If the Contract will involve (1) work of a long duration or hazardous nature, or (2) performance at a CHA facility that, on the advice of technical representatives, involves hazardous material or operations that might endanger the safety of the public, CHA residents, and/or CHA's personnel or property, before commencing the Work, the Contractor shall:

(1) Submit a written proposed plan for implementing the requirements of this Paragraph 13(m) that shall include an analysis of the significant hazards to life, limb, and property inherent in the performance of the work and a plan for controlling these hazards; and

(2) Meet with the Contracting Officer or his or her representative(s) to discuss and develop a mutual understanding relative to administration of the overall safety program.

(n) This Paragraph 13 shall be included in all subcontracts at any tier.

14. Temporary Heating

15. Availability and Use of Utility Services

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

(l) The Contractor shall at all times keep the Work Site free from accumulation of waste material and rubbish. At the completion of the Work, the Contractor shall remove all accumulation of waste material and rubbish as well as all of its tools, construction equipment, and surplus materials from the Work Site.

If the Contractor fails to keep the Work Site clean either during the course of the Work or fails at the completion of the Work to remove all waste materials, rubbish, tools, construction equipment and surplus materials from the Work Site, the CHA may do so upon written notification to the Contractor. The cost of such cleanup or removal operations to the CHA shall be charged to the Contractor.

17. Temporary Buildings and Transportation of Materials

(c) The Contractor must designate an area to serve the posting requirements of this Contract and the statutory requirements of the State of Illinois and the Federal government. A board (4' x 8') must be in plain view in a well-trafficked area at each Work Site. On this board shall be posted Equal Employment Opportunity, Occupational Health and Safety Administration, Workers' Compensation, and Davis-Bacon Wage information in compliance with the Conditions of this Contract.

(d) If the Project is over Five Hundred Thousand Dollars ($500,000.00), the Contractor shall furnish and maintain during construction of the Project, a Project Office at the Work Site (the "Project Office") to be designated by the CHA, for use of the CHA, its consultants, or Architect, as follows:

(1) The Project Office shall include office space of approximately 12' x 12' with light, heat, cold water, toilet facilities, janitor's service, telephone, sufficient internet access for CHA personnel (i.e. the project manager and field manager), plan tables and plan racks, a desk chair and one (1) file cabinet with a minimum of four (4) drawers. The Contractor may, at its option, furnish a Project Office trailer that specifically has been designed for this purpose. The trailer, if used, shall be subject to approval by the CHA.

(2) The Contractor and its subcontractors may maintain such Project Office and storage facilities on the Work Site as may be necessary for the proper performance of the Work. The Project Office shall be located so as to cause no interference with any Work to be performed on the Work Site. The Contractor shall consult the Architect with regard to the location of the Project Office.

(3) Upon completion of the Project, or as directed by the CHA, the Contractor shall remove the Project Office, and all temporary structures and facilities from the Work Site, including all property belonging to the Contractor, and leave the Work Site in the condition required by the CHA or Architect. If the Contractor fails to do so, the CHA may remove such structures and materials upon written notice to the Contractor and shall deduct all related costs of so doing from the Contractor's final payment.

18. Clean Air and Water

The first paragraph of Paragraph 18 of the General Conditions shall be designated subparagraph (a). Paragraph 18 is further amended to add the following additional language:

(b) In addition to other applicable statutes, regulations and ordinances, the Contractor shall comply with all applicable standards, orders and/or requirements established by and/or pursuant to:

(1) The Clean Air Act (42. U.S.C. 7401, et. seq.), and any amendments thereto;

(2) The Clean Water Act (33 U.S.C. 1251 et. seq.), and any amendments thereto;

(3) The Solid Waste Disposal Act as amended by the Resources Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901, et. seq.), and any amendments thereto;

(4) The Toxic Substance Control Act (TSCA) (15 U.S.C. 2601 et. seq.), and any amendments thereto;

(5) The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601 et. seq.), and any amendments thereto;

(6) Illinois Environmental Protection Agency regulations, and any amendments thereto;

(7) Illinois Department of Labor regulations, and any amendments thereto; and

(8) City of Chicago Ordinances, and any amendments thereto.

(c) In the performance of the Work, the Contractor shall not transact business with any company's facility that appears on the U.S. EPA's "List of Violating Facilities" (EPA List) as established by Executive Order 11738, and the U.S. EPA's Implementing Regulations found at 40 CFR Part 15, and any amendments thereto. In the event that the Contractor is the owner of a Facility on the EPA List, or the Contractor has breached any of the provisions of this Paragraph 18; the CHA, at its option, may terminate this Contract.

(d) Use of Class I Ozone-Depleting Substances:

(1) In accordance with Section 326 of Public Law 102-484, the CHA is prohibited from awarding any contract which includes a specification or standard that requires the use of a Class I Ozone-Depleting Substance (ODS) identified in Section 602(a) of the Clean Air Act, [42 U.S.C. 767(a)], or that can be met only through the use of such a substance unless such use has been approved, on an individual basis, by an acquisition official who determines that there is no suitable substitute available.

(2) To comply with this statute, the CHA has conducted a best efforts screening of the specifications and standards associated with this Contract to determine whether any ODS requirements are included. To the extent that ODS requirements were revealed by this review, they are identified below with the disposition determined in each case:

ODS IDENTIFIED_____

SPECIFICATION/STANDARD_____

DISPOSITION_____

(3) If this Contract requires use of ODS, the Contractor shall perform as stated in the "disposition" column above. However, to the extent that the specifications or

standards require the use of ODS or the possibility of such use, the Contractor shall give a preference to non-ODS alternatives.

(4) If the Contractor possesses any special knowledge about any other ODS required directly or indirectly at any level of Work performance, the Contractor shall notify the CHA and identify such substances at the earliest possible time. The Contractor shall provide any information it may have regarding the requirement of ODS as soon as possible after release of the Specifications for Bid and prior to the Contractor's submission of its bid to the extent practicable.

(e) This Paragraph 18 shall be included in all subcontracts at any tier.

19. Energy Efficiency

20. Inspection and Acceptance of Construction

(k) The Contractor shall be responsible for all materials delivered, loss of, or damage to the Work, furnishing utilities to the Work Site, maintenance of the Work, and all Work performed until completion and written acceptance of the entire Work, except for any partially completed unit of Work that has been accepted in writing under the Contract. Acceptance will occur after the completion of all bid items, a successful final inspection of the Work, Certification by the Architect that the Work is complete, and written acceptance by the CHA.

21. Use and Possession Prior to Completion

22. Warranty of Title

23. Warranty of Construction

(k) This Paragraph 23 shall be included in all subcontracts at any tier.

24. Prohibition against Liens

Paragraph 24 of the General Conditions is amended to add the following additional language:

It is expressly agreed that the Contractor shall execute a release of liens, stop notices and claims in substantially the same form as that shown in Exhibit A ("Release and Waiver of Liens, Stop Notices, and Claims") prior to final payment. If the Contractor has contracted with subcontractors, the Contractor shall provide a Release and Waiver of Liens, Stop Notices and Claims in substantially the same format as Exhibit A from each subcontractor and materialman supplying goods and services, in addition to its own Release and Waiver of Liens, Stop Notices, and Claims. This Paragraph 24 shall be included in all subcontracts at any tier.

25. Contract Period

26. Order of Provisions

The Paragraph Heading of Paragraph 26 is amended to read as follows:

26. Order of Precedence

(a) Notwithstanding anything to the contrary set forth in the General Conditions, the order of precedence and controlling documents of this Contract are:

(1) Written Modification Amendment Change Orders to Contract.

(2) All Bid Form pages of the Contractor's Bid Proposal pursuant to the CHA's Specification for Bid relevant to the Work

(3) Special Conditions of the Contract for Construction

(4) General Conditions for Construction Contracts – Public Housing Programs (form HUD-5370)

(5) Instructions to Bidders (form HUD-5369)

(6) Technical Specifications

(7) Drawings of the Contract

(8) Contractor's completed Certifications, Representations, and Other Statements of Bidders (form HUD–5369-A)

(b) In the event the Contractor identifies any discrepancies, incorrect statements, omissions, errors, ambiguities, or contradictions among the above-referenced documents, it shall notify the CHA in writing immediately upon such identification. Such notification shall include a complete description of the issue and the document(s) involved. The Contractor shall also identify a time frame in which the issue must be resolved in order to avoid any delays to the Critical Path schedule. The CHA and the Contractor will bilaterally negotiate any necessary changes to these documents, directives, or statements to resolve the discrepancies, incorrect statements, omissions, errors, ambiguities, or contradictions and any additional time required to complete a Critical Path task. The resolution shall be made a part of the Contract by bilateral change order or amendment. In the event the CHA and the Contractor cannot come to agreement, the CHA shall issue a unilateral change order making its resolution part of the Contract and any claim or dispute shall be resolved pursuant to Paragraph 31 titled "Disputes." The CHA assumes responsibility for drafting the Contract, proper identification of the Project, completeness of the Scope of Work, and the statement of Work as required by Federal Law in its role as the drafting party.

(c) This Paragraph 26 shall be included in all subcontracts at any tier.

27. Payments

(c) The "breakdown of the total contract price, described in Paragraph 27(c) may also be referred to herein as the "Schedule of Amounts."

(d) The following sentence shall be included after the third sentence of Paragraph 27(d): Obtaining the concurrence of the Architect shall be the responsibility of the Contractor.

(j) Paragraph 27(j) shall be amended to include the following: The Contracting Officer shall require an original, current Contractor's Sworn Statement to Owner with each payment request. The Contracting Officer may require original, current partial or final lien waivers

from the Contractor's subcontractors and material suppliers at any tier, and may require those partial or final lien waivers to correspond to the progress payment request being submitted to the CHA for payment. Any payments made despite Contractor's failure to submit the Subcontractors' lien waivers requested pursuant to this paragraph shall not waive the CHA's right to require lien waivers for future payment requests.

(k) The first sentence of Paragraph 27(k) is amended to read as follows: Unless required by Federal, State or local law, the PHA shall not; (1) determine or adjust any claims for payment or disputes arising thereunder between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers.

(l) Notwithstanding the provisions of Paragraph 27 of the General Conditions, upon completion of the Project, or where there are prescribed Work phases, upon completion of each phase, or on thirty (30) day intervals to be determined at the pre-construction meeting, whichever is less, the Contractor and a CHA representative shall conduct a walk-through inspection to certify that the Work has been performed satisfactorily. The Contractor may submit a progress payment request only for the Work certified by the CHA as having been completed satisfactorily. The CHA will use its most reasonable efforts to tender payment, less proper retention per the General Conditions, on all CHA approved progress payment requests as soon as possible thereafter. The retained amount shall be remitted in accordance with Paragraph 27 of the General Conditions.

(m) The CHA may verify the progress payment requests for accuracy, reasonableness, accountability and allowance. In the event the CHA determines that an item or part of a progress payment request is improper and will not be paid as requested, the CHA may, at their discretion, annotate or "blue line" that item or part so that the Contractor can provide further support or explanation, or the CHA may reject the progress payment in full. The Contractor may resubmit the payment request in proper form. The corrected progress payment item will be reconsidered with the next progress payment request. If the progress payment request is not rejected in full, all items and portions of a progress payment request that are not blue-lined will be paid, provided that all other provisions of this Contract addressing payment are satisfied.

(n) The Contracting Officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract (i.e., "set-off rights") with the same Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. To secure such payments, the Contractor is required to provide an Illinois Miller Act payment bond to the CHA in an amount equal to one-half of the value of the Contract.

In the event the Contractor fails to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the Work Site the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

Notwithstanding the above provision, the CHA shall not be obligated to make any payment to the Contractor unless the Contractor has fully complied with all of the

Contract provisions including, but not limited to the following:

(1) The Contractor has provided and paid for an acceptable Performance Bond and acceptable Miller Act Payment Bond in the total amount of one hundred percent (100%) of the Contract.

(2) The Contractor performs the Work pursuant to the Work Schedule approved per the terms of the Contract.

(3) The Contractor's minimum rates of pay have been and are in conformance with those promulgated pursuant to the Davis-Bacon Act (40 USC 276a et. seq.) as determined and readjusted periodically by the U.S. Department of Labor's General Wage Decisions.

(4) The Contractor carries the insurance specified in Paragraph 36 of these Special Conditions without interruption or breaks in coverage.

(5) The Contractor has submitted to the CHA proper bond and insurance certificates in a timely fashion as required and specified in Paragraph 36 of these Special Conditions.

(6) The Contractor has submitted proper payroll and related reports in a timely fashion as required and specified in Paragraph 46 of these Special Conditions.

(7) The Contractor makes timely submission of acceptable initial Work Schedules and acceptable Work Schedule updates and an acceptable "as-built" Work Schedule.

(8) The Contractor has complied with the MBE/WBE/DBE Utilization Plan and the Section 3 Utilization Plan.

(i) With respect to the MBE/WBE/DBE Utilization Plan, the Contracting Officer may withhold from the Contractor for each one percent (or fraction thereof) of shortfall toward the MBE/WBE goal, one percent of the base bid for this Contract. Any deductions from the Contractor's payments resulting from the Contractor's MBE/WBE/DBE non-compliance shall not waive any of the CHA's rights to pursue any other remedies available in law or in equity.

(9) The Contractor has provided CHA with an original Sworn Statement to Owner and all waivers required pursuant to Paragraph 27(j) above.

(o) The CHA reserves the right to issue payments pursuant to this Paragraph through a third party escrow established by the CHA. In the event that payments are to be made pursuant by such third party escrow agent, Contractor shall execute any such escrow agreement as may be required to effect such escrow arrangement.

(p) The Contractor acknowledges and agrees that the requirements with respect to the Construction Cash-Flow in Paragraph 6 are in addition to the breakdown of the total contract price described in this Paragraph.

28. Contract Modifications

29. Changes

(k) This Paragraph 29 shall be included in all subcontracts at any tier.

30. Suspension of Work

The Paragraph Heading of Paragraph 30 is amended to read as follows:
30. Suspension of Work, Delays, and Stop Work Orders

(d) Suspension of Work

(1) Notwithstanding the requirements set forth in Paragraphs 30(a), (b) and (c), if the performance of all or any part of the work is, for any unreasonable period of time, suspended or interrupted by the Contracting Officer for the convenience of the CHA, the Contractor may request in writing, which request must be delivered to the CHA, within thirty (30) days of resumption of work, an adjustment to the contract price for the increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension or interruption.

(e) Delays

(1) The Contractor agrees that it shall make no claims against the CHA for damages, charges, interest, additional costs, direct or indirect, consequential damages or fees incurred as a result of reasonable suspension of work, or as a result of any delays, disruptions, or disturbances, caused by or arising from actions of CHA employees, its agents, contractors and consultants. The Contractor's sole and exclusive remedy for such occurrences is an extension of time equal to the duration of the suspension, delay, disruption, or disturbance, to allow the Contractor to perform.

(2) Extension of the Contract time shall be allowed because of "excusable delays" due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, to include without limitation;

(i) "Force Majeure"

(ii) Acts of God

(iii) Acts of the public enemy

(iv) Act of the CHA without concurrent delay by the Contractor

(v) Acts of another Contractor in the performance of a contract with the CHA

(vi) Fires not caused by the Contractor

(vii) Floods not caused by the Contractor

(viii) Epidemics

(ix) Quarantine restrictions

(x) Strikes not caused by the Contractor

(xi) Freight embargoes

(xii) Unusually severe weather

(xiii) Delays to the subcontractors due to the foregoing cases

With respect to "excusable delays", the CHA shall ascertain and find the facts and extent of the delay and may extend the Contract time for the reasons stated above only. Its decision shall be final and conclusive on the parties and shall not be subject to the Disputes provision in Paragraph 31 of these Special Conditions.

(3) Time-Extensions

(i) Notwithstanding any other provisions of this Contract, it is mutually understood that time extensions shall depend upon the extent, if any, by which the changes delay various elements of construction. The change order granting the time extension may provide that the Contract completion date shall be extended only for specific activities delayed and that the durations for all other activities shall not be altered; and, may further provide for an equitable adjustment of liquidated damages per an updated Work Schedule.

(ii) It is expressly agreed that time extensions shall only be granted for delays to activities on the Critical Path of the Work Schedule, and that time extension requests must be supported by a Work Schedule Update and, if required pursuant to Paragraph 6(d)(9)(iv), a Special Project Delay Report.

(iii) Immediately upon becoming aware of any event or difficulties that might delay performance of the Work under this Contract, the Contractor shall notify the CHA in writing. The notification must identify the event or difficulties, the reason for the event or difficulties, and the estimated period of the delay anticipated. Such notice must be submitted to the CHA within ten (10) days after Contractor first became aware of potential or actual delay, event, or difficulty. Failure to give timely notice shall preclude later consideration of any request for a time extension.

(4) If the Contractor is at fault, in whole or part, for the delay of its performance of the Work or the delay is due to events caused by the Contractor's employees, suppliers, vendors, materialmen, or subcontractors, then the Contractor shall not be entitled to any additional time to complete the project. Any delay caused by the Contractor's failure to secure labor or to secure materials, supplies, tools, equipment, or any other items required by the Contractor for the performance of the work, resulting from anything other than a force majeure, shall not justify an extension of the Contract time. In any event, as a condition precedent to being entitled to an extension of time, it is the obligation of the Contractor to request an extension of time within ten (10) days of when the Contractor knew or should have known about the event giving rise to the delay.

(f) Stop Work Orders

(1) The Contracting Officer may, at any time, by written order to the Contractor ("Stop Work Order"), require the Contractor and its subcontractors to stop all, or any part, of the Work called for by this Contract for a period of ninety (90) days after a Stop-

Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Order shall be specifically identified as a Stop-Work Order under this Paragraph 30. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of Work stoppage.

(2) Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

(i) Cancel the Stop-Work Order; or

(ii) Terminate the Work covered by the Stop Work Order as provided in the Default or the Termination for Convenience provisions of this Contract.

(3) If a Stop Work Order issued under this Paragraph 30 is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume Work. In the event that the Stop Work Order was issued for reasons other than the Contractor's or any subcontractor's failure to comply with all terms and conditions of this contract, the Contracting Officer may make an equitable adjustment in the Work Schedule or Contract price, or both, and the Contract shall be modified, in writing, accordingly, if;

(i) The Stop-Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of the Work; and

(ii) The Contractor asserts its right to the adjustment in writing, addressed to the Contracting Officer, within ten (10) days after the end of the period of Work stoppage;

(4) If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated for the convenience of the CHA, the Contracting Officer shall allow reasonable costs resulting from the Stop Work Order pursuant to the Termination for Convenience provisions in Paragraph 34 of the contract.

(g) This Paragraph 30 shall be included in all subcontracts at any tier.

31. Disputes

(g) It is expressly agreed by the Contractor that in no event shall it be entitled to bring any legal action or claim pursuant to this Contract or any amendment thereto upon the passing of one (1) calendar year after the termination of this Contract, or the Final Completion of the Project, whichever shall occur earliest, notwithstanding any other provision at law or under this Contract.

(h) This Contract shall not create any rights or benefits to parties other than the CHA and the Contractor, except such other rights as may be specifically called for herein.

(i) This Paragraph 31 shall be included in all subcontracts at any tier.

32. Default

(d) The CHA may, upon delivery of written notice to the Contractor, without prejudice of any other rights or remedies of the CHA, terminate the Contractor's right to proceed with the Work for default, if one (1) or more of the following material defaulting events occur, including, but not limited to:

(1) The Contractor fails to execute, deliver and/or furnish the bond and insurance certificates required and specified within seven (7) calendar days after notification of Contract award.

(2) The Contractor files for, or is forced by creditors into a suit for, bankruptcy or any other action in insolvency.

(3) The Contractor fails to maintain continuous insurance coverage as required in Paragraph 36, such failure to include lapses in coverage of one (1) day or more.

(4) The Contractor makes a general assignment for the benefit of its creditors.

(5) A receiver is appointed for the Contractor on account of its insolvency.

(6) The Contractor violates any provision of the Contract Documents, as the term is defined in the Contract.

(7) The Contractor fails to maintain and renew bonds required in this Contract.

(8) The Contractor fails to pay any of its subcontractors or suppliers within ten (10) days after receipt of payment from the CHA to the Contractor.

(9) The Contractor suspends diligent prosecution of the Work or abandons the Work for ten (10) or more days.

(10) The Contractor does not prevent the imposition of liens impacting the Project.

(11) The Contractor makes any material misrepresentation of the Representations and Certifications to this Contract, whether intentional or not.

(12) A loss time injury or death occurs in which an OSHA penalty is assessed.

(13) The Contractor materially breaches its performance of the Contract.

(14) The Contractor fails to complete the Work in accordance with the Work Schedule.

(15) Kickbacks of employee wages, subcontractor or vendor payments, or any other payment to the Contractor or subcontractor, or its respective principals, superintendents, or foremen occur.

(16) The Contractor or its subcontractors fail to pay Davis-Bacon wages, inaccurately certify payrolls, or miscategorize an employee's job classification.

(17) The Contractor is terminated for default on any other CHA or City of Chicago contract.

(18) The Contractor is debarred from any other Federal, State of Illinois, or City of Chicago procurement activity or contract during the term of this Contract.

(19) The Contractor or any of its principals owning more than five (5%) percent of the Contractor is charged with or arrested for criminal conduct for which there may be a felony conviction.

(20) The Contractor fails to obtain in a timely manner, maintain, continuously renew, or lacks any license, permit or registration required by the City of Chicago or State of Illinois.

(21) The Contractor fails to maintain a "drug-free" Work Site.

(22) The Contractor fails to provide accurate and timely Critical Path Method Work Schedules and updates.

(23) The Contractor fails to maintain levels of employment and use of MBE/WBE/DBE and other preference categories of employees, subcontractors and vendors as prescribed at law or as agreed to in this Contract.

(e) In the event the CHA delivers such notice of termination for default, the Contractor will have ten (10) days to remedy (e.g., "cure") the defaulting event to the satisfaction of the Contracting Officer. The Contracting Officer's determination shall be final.

(f) In the event the CHA's decision to terminate this Contract for default is found to be wrongful, the termination for default shall become a termination for convenience and the Contractor's exclusive remedy shall be those provided in Paragraph 34.

(g) In the event of such termination for default, the CHA may take over the performance of the Contract and prosecute it to completion, by contract or otherwise, and the Contractor and its sureties shall be liable for any excess cost occasioned to the CHA, in addition to liquidated damages under Paragraph 33 that have accrued or may accrue for failure to meet turnover requirements or complete the project on time as required by the Contract and the Work Schedule. In any such case, the CHA may take possession of and use any of the Contractor's materials, appliances, equipment and/or plant as is on the Work Site as may be necessary to properly complete the Work and Project if it is determined that not so doing will cause delay in completion of the performance thereof which is detrimental to the interests of the CHA.

(h) In the event the Contractor's surety is required to complete the Work, it is specifically agreed that the Contractor shall not be allowed to complete or subcontract to complete the Work through the surety.

(i) If the Contactor is terminated for default, it shall be debarred from performing any other contracts for the CHA for a period of not less than three (3) years from the date of such termination.

(j) In the event of termination for default, the Contractor shall be liable to the CHA for any and all damages sustained by the CHA as result of the Contractor's default.

(k) The foregoing provisions are in addition to, and not in limitation of, the rights of the CHA

under any of the provisions of the Contract, at law or in equity.

(l) This Paragraph 32 shall be included in all subcontracts at any tier.

33. Liquidated Damages

(d) Notwithstanding any other provision of Paragraph 33 of the General Conditions, the Contractor agrees to complete the Work within the Work Schedule and to complete each task on the critical path of the Work Schedule, and acknowledges that time is of the essence. The parties hereby acknowledge and agree that as actual damages for any delay in completion of the Work are difficult to determine and prove, the Contractor and its sureties agree to pay the CHA the sum of $1500 per day as fair and reasonable damages for failure to meet the Project Final Completion Date deadline in the contract and failure to meet turnover requirements as set forth in the contract documents and Work Schedule. Said liquidated damages shall continue to accrue as reasonable damages until the units are turned over and/or the final completion occurs.

(e) Liquidated damages may be assessed at each interval that the Contractor submits a request for payment pursuant to Paragraph 27. With each such payment request, the Contractor shall certify that applicable turnover requirements have been achieved. If turnover requirements have not been achieved, the CHA shall be entitled to deduct from the progress payment the amount of liquidated damages determined herein. The CHA's failure to deduct liquidated damages to which it may be entitled shall not be deemed a waiver of the CHA's entitlement to said damages, or of the CHA's right to collect such damages in the future.

(f) This Paragraph 33 shall be included in all subcontracts at any tier.

34. Termination for Convenience

(e) The CHA may, without prejudice of any other rights or remedies of the CHA, terminate the Contractor's right to proceed with the Work for convenience, if, including, but not limited to:

(1) A defaulting event occurs.

(2) The Contractor is terminated for default on any other CHA or City of Chicago contract.

(3) The Contractor is debarred from any other Federal, State of Illinois, or City of Chicago procurement activity or contract during the term of this Contract.

(4) The Contractor or any of its principals owning more than five (5%) percent of the Contractor is charged with or arrested for criminal conduct for which there may be a felony conviction.

(5) The Contractor fails to obtain in a timely manner, maintain, continuously renew, or lacks any license, permit or registration required by the City of Chicago or State of Illinois.

(6) A strike, which was not provoked by the Contractor or its subcontractors, gang

warfare, civil insurrection, or riot, causes the Work to be suspended in whole or significant part for ten (10) days or more.

(7) The Contractor fails to maintain a "drug-free" Work Site.

(8) The Contractor fails to provide accurate and timely Critical Path Method Work Schedules and updates.

(9) The Contractor fails to maintain levels of employment and use of MBE/WBE/DBE and other preference categories of employees, subcontractors and vendors as prescribed at law or as agreed to in this Contract.

(f) It is the CHA's exclusive right to determine use of the termination for default or termination for convenience provisions of this Contract.

(g) In the event of termination for convenience, the Contractor shall be entitled to the following amounts as a final payment under the contract:

(1) costs of work completed and accepted by the CHA;
(2) costs of non-defective materials and supplies delivered to the Project sites and accepted by the CHA; and
(3) the reasonable cost of termination and settlement of subcontracts.

The CHA shall be entitled to deduct from this final payment any amounts prepaid to the Contractor and unused at the time of termination; liquidated damages, if any; and any claims for damages against the Contractor.

(h) This Paragraph 34 shall be included in all subcontracts at any tier.

35. Assignment of Contract

36. Insurance

(d) In addition to the insurance required pursuant to Paragraph 36 of the General Conditions and subject to all other provisions of that Paragraph, the Contractor (or if a joint venture, each joint venturer) shall comply with the following provisions:

The Contractor agrees to procure and maintain at all times during the term of this Contract the types of insurance specified below in order to protect the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors, from the negligent acts, omissions and errors of the Contractor, its officers, directors, officials, sub-contractors, joint venture partners, agents, or employees. The insurance carriers used by the Contractor must be authorized to conduct business in the State of Illinois and shall have an A.M. BEST rating of not less than an A except where noted.

Each such policy obtained by the Contractor shall provide that the insurer shall investigate and defend any suit against the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors, even if such suit is frivolous or fraudulent. Such insurance shall, in the event of a conflict of interest, provide the CHA the right to engage its own attorney for the purpose of investigating and defending any legal action against

the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors and the Contractor shall indemnify the CHA for costs and expenses, including reasonable attorneys' fees arising out of or incurred in the investigation and defense of such action. Coverage to the CHA as an endorsed additional insured on any of the Contractor's insurance coverages shall not be subject to any deductible. Should the CHA not be endorsed as an additional insured on any such policy then the additional and named insureds and the insurance carrier on said insurance shall grant the CHA a waiver of subrogation with respect to any claims made pursuant to the coverage. Claims between insureds will not void coverage, but nothing herein shall operate to increase the limits of liability of the policies.

(e) Required Insurance Coverages **(RFP or IFB# MUST BE REFERENCED ON CERTIFICATE)**

(1) Worker's Compensation and Occupational Disease Insurance in accordance with the laws of the State of Illinois (Statutory) Coverage A, and Employer's Liability, Coverage B, in an amount of not less than $500,000/$500,000/$500,000.

(2) Commercial General Liability Insurance shall be provided in an amount of not less than One Million Dollars ($1,000,000) per occurrence with a Per Project Aggregate of not less than Two Million Dollars (2,000,000) (i.e., $1,000,000/$2,000,000). Commercial General Liability Insurance is to be written on an occurrence form (Primary) in the amounts required. In addition to the stipulations outlined above, the Commercial General Liability coverage shall include coverage for Contractual Liability, Products-Completed Operations, Personal and Advertising Injury and shall cover injury to the Contractor's officers, employees, agents, subcontractors, invitees, and guests and their personal property. **The CHA is to be endorsed as additional insured on the policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.**

(3) Automobile Liability Insurance shall be provided when any motor vehicles (owned, non-owned and/or hired) are used in connection with the Work with limits of not less than One Million Dollars ($1,000,000) per occurrence, for bodily injury and property damage. The CHA is to be endorsed as additional insured on the policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.

(4) Professional Liability (e.g., Errors & Omissions Coverage) shall be provided when any architects, engineers, construction managers, property managers or other professional consultants perform any of the Work described in this Contract. Professional Liability coverage shall cover negligent acts and errors or omissions with limits of not less than Two Million Dollars ($2,000,000) per occurrence. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, the start of Work under this Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period (i.e., "tail coverage") of two (2) years.

(5) Builders Risk shall be provided through an All Risk Builders Risk policy covering improvements, betterments, and/or repairs, at replacement cost, for all materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent project. Coverage should include, but not be limited to, faulty

workmanship or materials. These terms are in addition to those at Paragraph 36(b) of the General Conditions.

(6) Contractor's Pollution Liability shall be provided when the Scope of Work of the Contract covers working with or around hazardous materials. The Contractor's Pollution Liability policy shall be written on an occurrence basis (claims made is not acceptable), covering any bodily injury, liability, and property damage liability arising out of pollutants including, without limitation, hazardous materials such as asbestos, lead, or PCBs, for activities of the Contractor under or incidental to the Contract, including without limitation, transit of hazardous materials to a permanent disposal facility or activities by itself, by any of its subcontractors, or by anyone directly or indirectly employed or otherwise contracted by any of them. This policy shall be maintained with limits of not less than Three Million Dollars ($3,000,000) per occurrence. The CHA is to be endorsed as an additional insured on the policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.

(7) Lead/Asbestos Abatement Liability. When any lead and/or asbestos abatement liability work is performed in connection with the contract, Lead/Asbestos Abatement Liability Insurance shall be provided with limits of not less than Five Million Dollars ($5,000,000.00) per occurrence insuring bodily injury, property damage and Environmental clean-up. The CHA is to be endorsed as an additional insured on the Policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA. When claims made policies are renewed or replaced, the policy retroactive date must coincide with, or precede, the start of Work under this Contract. A Claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(8) Mold Remediation Liability. When any mold remediation liability work is performed in connection with the contract, Mold Remediation Liability Insurance shall be provided with limits of not less than Five Million Dollars ($5,000,000.00) per occurrence insuring bodily injury, property damage and Environmental clean-up. The CHA is to be endorsed as an additional insured on the Policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA. When claims made policies are renewed or replaced, the policy retroactive date must coincide with, or precede, the start of Work under this Contract. A Claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(9) Railroad Protective Liability Insurance. When, in connection with any work that is to be done adjacent to or on property owned by a railroad or public transit entity, the Contractor shall procure and maintain, or cause to be procured and maintained, with respect to the operations the Contractor or any subcontractor shall perform, railroad protective liability insurance in the name of such railroad or public transit entity. The policy shall have limits of not less than Two Million Dollars ($2,000,000) per occurrence, combined single limits, and Six Million Dollars ($6,000,000) in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(10) Umbrella coverage is to follow the form of all primary coverage requirements as outlined above in the amount of not less than Five Million Dollars ($5,000,000) in excess of all other coverages required.

(f) Certificates of Insurance

Prior to the issuing of the Notice to Proceed by the CHA, the Contractor and its subcontractors shall furnish the CHA with Certificates of Insurance or other satisfactory evidence (subject to approval of the CHA) that the Contractor and its subcontractors have the insurance coverage set forth above. An ACORD form, properly completed, is such a certificate of insurance and is adequate proof of insurance. **The CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors shall be endorsed as additional insureds on all of the Contractor's required insurance coverages, with the exception of Professional Liability and Workers' Compensation, and shall be properly and accurately shown on the Contractor's Certificate of Insurance. Such insurance shall be endorsed as primary and non-contributory with any other insurance available to the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors.** The CHA shall be named as loss payee.

(g) Renewal Certificates of Insurance

Said policies shall not be canceled or permitted to lapse until final completion and approval of the performance of the Contract, and shall contain a provision that the policy shall not be canceled or changed until thirty (30) days after the CHA has received written notice, by certified or registered mail, that the cancellation or change of such policy is contemplated. Renewal certificates of insurance, requested endorsements, or such similar evidence must be received, via an email to the CHA Procurement Specialist or certs@thecha.org, preferably in a Readable PDF format, thirty (30) calendar days prior to expiration of insurance coverage, received at least annually, and must restate the effective value of the coverage provided. The receipt of any certificate does not constitute agreement by the CHA that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with the requirements of the Contract. The insurance policies shall provide for thirty (30) days prior written notice to be given to the CHA in the event coverage is substantially changed, canceled or non-renewed. The Contractor expressly agrees that the CHA may communicate directly with Contractor's insurance broker or carrier to obtain renewal certificates; nonetheless, this provision does not relieve the Contractor of the duty to provide the CHA with timely renewal certificates.

At the CHA's option, non-compliance shall result in one or more of the following actions:

(1) The CHA shall purchase insurance on behalf of the Contractor and shall charge back all costs, to include administrative and insurance costs, to the Contractor;

(2) The CHA may communicate directly with the broker or carrier to determine an explanation for the noncompliance;

(3) The Contractor shall be immediately removed from CHA property and the Contract revoked; and/or

(4) All payments due to the Contractor shall be held until the Contractor has complied with the insurance provisions of this Contract.

(h) Claims Made Policies and Tail Coverage

If any of the required insurance is written on a "claims made" as opposed to an "occurrence" basis, the retroactive date shall be prior to or coincident with the date of the Contract, and the Certificate of Insurance shall state that the coverage is "claims made" and also the retroactive date. A "claims made" policy that is not renewed or replaced must have an extended reporting period of two (2) years for continuous coverage following expiration or earlier termination of this Contract (i.e., tail coverage). Tail coverage premiums shall be paid by the Contractor. The Contractor shall provide to the Owner, annually, a certified copy of the insurance policies or a certificate of insurance obtained pursuant to the requirement for tail coverage.

(i) It is agreed that the Contractor shall provide a thirty (30) day notice in the event of the occurrence of any of the following conditions:

(1) Aggregate erosion of coverage in advance of the retroactive date;

(2) Cancellation of the policy; and/or

(3) Non-renewal of the policy.

(j) Subcontractor's Insurance.

Except for the insurance coverage required in Paragraph 36(e)(10) above, the Contractor shall require all subcontractors to carry the insurance required herein or the Contractor may provide the coverage for any or all of its subcontractors. Evidence of such insurance shall be submitted to the CHA prior to the commencement of any Work under this Contract. Subcontractor's insurance shall comply with the same requirements and conditions as outlined in this Paragraph titled "Insurance" and Paragraph 36 of the General Conditions.

(k) CHA Insurance

The Contractor expressly understands and agrees that any insurance or self-insurance programs maintained by the CHA shall apply in excess of and shall not contribute with insurance provided by the Contractor under this Contract.

(l) Limitation of Liability

It is expressly agreed that the insurance coverages required per this Contract do not act as limitations of liability of the Contractor, its joint venturers, parent companies or subcontractors.

(m) Lapses in Coverage

In addition to any other provisions of this Contract or at law, the Contractor may immediately, and without notice, have all compensation withheld or suspended, be suspended from providing further Work, or be terminated for cause from this Contract

for any lapse in coverage or material change in coverage pursuant to the requirements of this Paragraph 36, for failure to furnish the CHA with a timely certificate or renewal of certificate, or for making an incorrect or a false representation with regard to the provision of the insurance specified herein.

(n) This Paragraph 36 shall be included in all subcontracts at every tier.

37. Subcontracts

(f) All subcontractors utilized by the Contractor and not so identified at the time of bid or offer submission must receive prior approval in writing by the Contracting Officer prior to utilization for any subcontract on this Contract.

(g) The Contractor shall submit to the CHA a true and original copy of each subcontract, including subcontracts at any tier, it executes for any portion of the Work within ten (10) days of execution of the subcontract and submit to the CHA within ten (10) days any amendment, modification, or change thereto.

(h) The Contractor shall comply with all applicable laws, regulations, policies and procedures of the CHA in the procurement of lower-tier subcontractors.

(i) The Contractor shall incorporate the flowdown requirements of this Contract into all of its lower-tier subcontracts. Said contract provisions in all subcontracts will be appropriately drafted to reflect the proper relationship among the CHA, the Contractor and the lower-tier subcontractor with regard to the lower-tier subcontract. The Contractor shall make available to each proposed Subcontractor, prior to the execution of its subcontract, copies of the General Conditions and these Special Conditions.

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

(f) To the greatest extent feasible and in compliance with all CHA policies, subcontracts shall be let to minority subcontractors, particularly those that are located in or owned in substantial part by persons residing in the area of the Project.

(g) Each bidder (and Contractor) must complete and submit the following forms:

(1) Schedule A – Affidavit of MBE/WBE/DBE Utilization Plan

A non-MBE/WBE/DBE bidder/proposer (and Contractor) must submit, as part of the overall MBE/WBE/DBE Participation Proposal, on or before the time set for that proposal, a Schedule A which commits it to the utilization of each listed MBE/WBE/DBE subcontractor or vendor in the direct or indirect performance of Work.

(2) Schedule C - Letter of Intent: MBE/WBE/DBE and Section 3 Sub-Contractors, Suppliers, and Consultants

A non-MBE/WBE/DBE bidder/proposer (and Contractor) shall commit to the expenditure of a specific dollar amount of participation by each listed MBE/WBE/DBE subcontractor or vendor. The total dollar commitment to proposed MBE/WBE/DBEs must at least equal the required Contract participation goal shown

as follows:

Contract Amount	MBE/WBE/DBE Percentage
$ 25,000 - $ 200,000	25%
$200,001 - $ 500,000	30%
$500,001 - $1,000,000	35%
Over - $1,000,000	40%

(3) The CHA shall deem a bid as non-responsive in its entirety by reason of the determination that a bidder/proposer's MBE/WBE/DBE Participation Proposal and Schedules A and B contain an insufficient level of MBE/WBE/DBE participation; or, the MBE/WBE/DBE subcontractors or vendors are not in compliance with certification requirements under the law.

(4) The Contractor shall, within five (5) business days of receiving the Contract or prior to any Work being performed, execute formal Contracts or purchase orders with the MBE/WBE/DBE subcontractors or vendors included in its MBEWBE/DBE Participation Proposal and Schedules A and B. These written agreements shall be forwarded to the Contract Compliance Section, 60 East Van Buren St., 13th Fl., Chicago, IL 60605.

39. Equal Employment Opportunity

(k) In addition to the requirements contained in the HUD General Conditions for Construction Contracts (HUD Form 5370), the Contract shall comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., as amended, and regulations promulgated in accordance therewith, including but not limited to the Equal Employment Opportunity Clause, Ill. Admin. Code Tit. 44 section 750 Appendix A as follows:

ILLINOIS EQUAL OPPORTUNITY CLAUSE

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER X: Department of Human Rights
PART 750 PROCEDURES APPLICABLE TO ALL AGENCIES
Section 750. APPENDIX A EQUAL EMPLOYMENT OPPORTUNITIES

Section 750.APPENDIX A Equal Employment Opportunity Clause

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Act, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

(1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental

disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

(2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

(3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.

(4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and this Part, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

(5) That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.

(6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

(7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 35 Ill. Reg. 3695, effective February 18, 2011)

(l) This Paragraph 39 shall be included in all subcontracts at any tier.

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

(h) This Paragraph 40 shall be included in all subcontracts at any tier.

41. Interest of Members of Congress

Paragraph 41 of the General Conditions is amended to add the following:

This Paragraph 41 shall be included in all subcontracts at any tier.

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

Paragraph 42 of the General Conditions is amended to add the following:

If any member, officer or employee of the CHA involuntarily acquires any interest direct or indirect in the Project, this Contract or the proceeds thereof or had acquired any such interest prior to appointment or employment of such member, officer, or employee, then such person shall immediately disclose any such interest in writing to the CHA.

Upon any such disclosure, a member, officer, or employee of the CHA shall not participate in any action of the CHA relating to the Project or this Contract in which it may have any such interest. No member of or delegate to the Congress of the United States of America, or sitting Commissioner of the CHA, or member of the Legislature of the State of Illinois, or member of the City Council of the City of Chicago, Illinois shall be admitted to any share or part of the Contract or to any benefit to arise therefrom; provided that this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

This Paragraph 42 shall be included in all subcontracts at any tier.

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

(c) No person or business entity shall be awarded a contract or subcontract for a period of at least five (5) years from the date of conviction or entry of a plea or admission of guilt, for the following disqualifying acts, if that person or business entity:

(1) Has been convicted of an act committed, within the State of Illinois, of bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity.

(2) Has been convicted of an act committed, within the State of Illinois, of bid rigging or attempting to rig bids as defined in the Sherman Anti-Trust Act and Clayton Act (15 U.S.C. sec. 1 et. seq.), or has been convicted of bid rigging or attempting to rig bids under the laws of the State of Illinois.

(3) Has been convicted of an act committed, within the State of Illinois, of price fixing or attempting to fix prices as defined by the Sherman Anti-Trust Act and Clayton Act (15 U.S.C §1 et. seq.), or has been convicted of price fixing or attempting to fix prices under the laws of the State of Illinois.

(4) Has been convicted of defrauding or attempting to defraud any unit of state or local

government or school district within the State of Illinois.

(5) Has made an admission of guilt of such conduct as set forth in subparagraphs (1) through (4) above which admission is a matter or record, whether or not such person or business entity was subject to prosecution for the offense or offenses admitted to.

(6) Has entered a plea of nolo contendere to charges of such conduct as is set forth in subparagraphs (1) through (4) above.

(d) For purposes of this Paragraph 43, "business entity" means a corporation, partnership, trust, association, unincorporated business or individually owned business. Where an official, agent, or employee of a business entity committed the disqualifying acts set forth in paragraph (c) above, on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct and disqualified.

(e) A business entity shall also be disqualified if it employs as an officer any individual who was an officer of another business entity at the time the latter committed a disqualifying act.

(f) A business entity shall also be disqualified if any owner who controls, directly or indirectly, twenty percent (20%) or more of the business was an owner who directly or indirectly controlled twenty percent (20%) of another business entity at the time the latter committed a disqualifying act.

(g) Any contract or subcontract found to have been awarded in violation of this Paragraph 43 shall be voidable at the discretion of the CHA Board of Commissioners. Payment for Work completed at the time of any such voiding shall be at a quantum meruit rate less liquidated damages equal to twenty five percent (25%).

(h) This Paragraph 43 shall be included in all subcontracts at any tier.

44. Royalties and Patents

45. Examination and Retention of Contractor's Records

(d) The CHA shall furnish to the Contractor all Project related data and documents, whether recorded on paper or electronically recorded media such as, but not limited to, audio tapes, computer disks, internal drives, software programs, and photographs ("Project Documents") readily available to the CHA that are necessary for the Contractor's efficient and effective provision of the Work, to the extent such Project Documents are not proprietary or confidential to another party. In the event necessary Project Documents are not readily available to the CHA, the CHA shall cooperate with the Contractor to obtain such Project Documents in an expeditious manner.

(e) The Parties agree that the CHA shall retain title to and possession of all Project Documents furnished to the Contractor. The Contractor will be permitted to retain reproducible copies of all non-confidential or non-proprietary Project Documents.

(f) The Contractor agrees to be fully bound by any confidentiality or proprietary agreement imposed on the CHA with regard to similarly protected Project Documents, and/or to

enter into any reasonable confidentiality or proprietary agreement proposed by the CHA before accepting receipt of confidential or proprietary Project Documents.

(g) The Parties agree that the Contractor shall furnish to the CHA, and the CHA shall be given title to and possession of, all data and documents, whether recorded on paper or electronically recorded media such as, but not limited to, audio tapes, computer disks or internal drives, and software programs; photographs and all deliverables required pursuant to this Contract, procured by or developed by the Contractor in regard to the Project ("Contractor's Records"). The Contractor will be permitted to retain reproducible copies of all non-confidential or non-proprietary Contractor Records.

(h) In the event of termination of this Contract for any cause, Contractor expressly agrees to immediately give possession of all Project Documents and Contractor's Records it has possession of or custody over, whether complete or in process, with respect to the Project and this Contract, to the CHA. Contractor waives all rights to a temporary restraining order or injunction with regard to enforcement of this provision. The CHA shall have the right to use the Project Documents and Contractor's Records at any time without restriction or limitation and without compensation to the Contractor other than that provided in this Contract.

(i) The Contractor agrees at any time during the performance of the Work that all Project Documents and Contractor's Records shall be made available to the CHA for review or use to the extent such review or use does not unduly delay or interfere with the provision of the Work.

(j) The Contractor expressly agrees that it shall retain and maintain all records and documents, including Project Documents and Contractor's Records, relating to this Contract for three (3) years after final payment or any applicable statute of limitations, whichever is longer, and make them available for inspection and audit by an authorized representative of the CHA at all reasonable times. The accounting records and all supportive documentation shall be maintained in such a manner that will provide for a separation between direct and indirect costs. All reports and results of such audits will be made fully available to the CHA on a timely basis.

(k) This Paragraph 45 shall be included in all subcontracts at any tier.

46. Labor Standards – Davis-Bacon and Related Acts

47. Non-Federal Prevailing Wage Rates

48. Procurement of Recovered Materials

49. Hold Harmless and Indemnification

(a) The Contractor shall indemnify, defend, and hold harmless the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused by, resulting from (directly or indirectly), or arising out of the violation or breach of any term of this Contract or the negligent acts, errors, or omissions of the Contractor,

its officers, employees, agents, subcontractors, materialmen, or representatives arising in tort or in the performance of the Work under this Contract.

(b) The Contractor shall indemnify and hold harmless the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors from and against any and all claims and demands of third persons resulting from the Contractor's non-compliance with any of the provisions of the CHA's policies and directly related governmental statutes regarding Equal Employment Opportunity, Disadvantaged Business Enterprise, and other similarly titled policies and statutes.

(c) The extent of this Paragraph 49 shall not be limited by the insurance the Contractor provides and/or by the insurance required by Paragraph 36 hereof or Paragraph 36 of the General Conditions.

(d) The Contractor further agrees that it will not hold the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors responsible for loss, damage or injury caused by any fault or negligence of other consultants or contractors providing work or services in connection with the Project. The Contractor agrees that it will look solely to said consultants or contractors for recovery from them, or any of them, for any such damage or injury.

(e) The Contractor's duties and responsibilities under this Paragraph 49 include, without limitation, investigation and defense of any such claims asserted or suit brought against the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors, and payment of any judgment against CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors resulting from any such claim or suit. It is further agreed that the CHA, its respective commissioners, board members, officers, directors, agents, construction management firm, employees, vendors, invitees and visitors have the right, at their respective option, to participate in any such claim resolution or litigation without, however, relieving the Contractor of its obligations hereunder; and further provided that this Paragraph 49 shall not apply to injury, sickness, disease, death or destruction, the proximate cause of which is an act or omission of the CHA.

(f) This Paragraph 49 shall be included in all subcontracts at any tier.

50. Notices

(a) All notices, demands, requests, instructions, approvals, proposals, change orders and claims related to this Contract must be made in writing.

(b) Any notice to or demand upon the Contractor or its subcontractors shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Contract or at such other office as it may from time to time designate in writing to the CHA; or, deposited in the United States mail in a sealed postage-prepaid envelope; or, if delivered with charges prepaid to any nationally recognized express delivery company such as FedEx, UPS, or DHL for next business day delivery; and, in each case addressed to such office.

(c) All papers required to be delivered to the CHA or the Architect shall, unless otherwise specified in writing to the Contractor, be delivered to the Chicago Housing Authority, Capital Construction Division, 60 East Van Buren St., 13th Fl., Chicago, Illinois 60605, and any notice to or demand upon the CHA or Architect shall be mailed in a sealed postage-prepaid envelope or if delivered, with charges prepaid to any nationally recognized express delivery company such as FedEx, UPS, or DHL for next business day delivery; for delivery to the CHA at such address, or to such other representatives of the CHA at such other address as the CHA may subsequently specify in writing to the Contractor for such purpose.

(d) This Paragraph 50 shall be included in all subcontracts at every tier.

51. Lead-Based Paint Abatement

(a) The Contractor shall comply with the requirements of the Lead-Based Paint Poisoning Prevention Act as documented in 24 CFR 35. In addition, neither the Contractor nor any of its subcontractors shall, in any CHA residential property, non-residential property, day care center on CHA property, or other leased space on CHA property, in the course of any construction, rehabilitation, or modernization, use or permit the use of lead-based paint on any surface.

(b) For the purpose of this prohibition, "lead-based paint" as defined in section 501 (3) of the Lead-Based Paint Poisoning Prevention Act as amended by Pub. L. 94-317 (42 U.S.C. § 4801 et. seq.) and the National Consumer Information and Health Promotion Act of 1976, means:

(1) Any paint containing more than five-tenths of 1 per cent lead by weight (calculated as lead metal) in the total non-volatile content of the paint or the equivalent measure or lead in the dried film of paint already applied or both; or

(2) With respect to paint which is manufactured after June 22, 1977, lead-based paint means any paint containing more than six one-hundredths of 1 per cent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

(c) The Paragraph 51 shall be included in all subcontracts at any tier.

52. CHA's Project Manager

(a) The CHA shall designate a project manager ("PM") or similarly entitled individual with responsibility to monitor the Contractor's performance of the Work, receive information from the Contractor, interpret and define the CHA's requirements, make decisions with respect to the Work, monitor and assist in the resolution of problems and disputes, and provide coordination with work provided by others.

(b) The PM, or its designated deputy, the field manager, shall be the exclusive party through which the Contractor and its lower-tier subcontractors and suppliers communicate and transmit submittals to the CHA or any other party associated with the Project, unless otherwise designated in writing by the CHA. Notwithstanding this Paragraph 32, communications regarding any claim by the Contractor pursuant to Paragraph 31 of the General Conditions and these Special Conditions shall be directed to the Contracting Officer as well.

53. Submittal of Documents after Award

(a) Submittal of Documents

The Contractor and its subcontractors shall **within seven (7) calendar days** after notification of award and prior to entry on the Work Site, execute, deliver and/or furnish the performance and payment bond and insurance certificates as required and specified in this Contract.

(b) Payrolls and Related Reports.

The Contractor is required to submit U.S. Department of Labor approved form WH-347 within five (5) days of the end of each work week to the CHA Contract Compliance Officer, Contract Compliance Division, Chicago Housing Authority, 60 East Van Buren St., 13th Fl., Chicago, Illinois 60605.

(c) Minimum Rates of Pay.

The minimum rates of pay shall be in conformance with those promulgated pursuant to the Davis-Bacon Act (40 U.S.C. §275a et. seq.) as determined and readjusted periodically by the U.S. Department of Labor's General Wage Decisions.

(d) Subcontractor Responsibilities.

This Paragraph 53 shall be included in all subcontracts at every tier.

54. Contractor's Personnel

(a) The Contractor represents that it has, or shall immediately secure, experienced, qualified and professional personnel who shall perform the Work required pursuant to this Contract.

(1) Further to the above, the personnel provided by the Contractor shall be knowledgeable in good construction practices; able to exercise sound judgment; able to use appropriate tools and equipment; able to maintain a harmonious relationship with each other, the CHA, other contractors and the public; and, hold all the personal, business and professional licenses and registrations necessary to perform the Work.

(2) The qualifications of all of the Contractor's personnel assigned to the Project at any time shall be subject to the approval of the CHA.

(b) It is expressly understood and agreed by the Contractor that its personnel shall be employed under this Contract and on the Project at the pleasure of the CHA and that should such personnel not perform satisfactorily or for any other reasonable rationale not be satisfactory to the CHA, then the Contractor shall immediately replace said personnel ("Replaced Personnel") with other personnel acceptable to the CHA. The Contractor agrees to defend, indemnify and hold harmless the CHA from any action or claim asserted by or brought by Replaced Personnel.

(c) During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, creed, color,

religion, ancestry, national origin, sex, affectional preference, disability, handicap, age (40+), marital status, or public assistance status. 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 the selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants, employment notices which set forth the provisions of this non-discrimination article.

55. Project Management Software

(a) The Contractor shall maintain the capability to communicate and collaborate with the CHA's Capital Construction Division and, where applicable, its construction manager, electronically via Meridian Project Systems™ Prolog Website®, Prolog Exchange® and Prolog Manager® which have been selected by the CHA for reporting milestone performance, cost control, document management and field management including data collection. The Contractor is required to communicate and collaborate with the CHA and its construction management representatives during all phases of the Work via Prolog Website®, Prolog Exchange®, and Prolog Manager®. The software for developing and maintaining the Work Schedule shall be Oracle Primavera P6 Professional Project Management version 6.2 or greater. The Contractor shall utilize Prolog Website® and Prolog Manager® (or such other project management software the CHA may adopt) for the following project management and document control functions, including but not limited to:

(1) Preparing Requests for Information ("RFI")
(2) Preparing Submittal Packages
(3) Maintaining Submittal Registers
(4) Preparing Submittal Transmittals
(5) Maintaining Transmittals and Correspondence Logs
(6) Preparing and responding to hot list Items
(7) Preparing and responding to issues

The Contractor shall maintain the capability to create and/or receive general documents utilizing Microsoft Office.

The Contractor may be required to submit additional items using CHA's construction management software, including, but not limited to, electronic invoices and change order submittals. **Notwithstanding the specifications set forth herein, the Contractor shall be required to utilize such construction project management software the CHA may adopt during the term of the Contract.**

IMPORTANT: All electronic data/files must be submitted on CD-ROMs. Failure to submit electronic data/files on CD-ROMs shall result in the entire Bid Package being deemed non-responsive.

(b) The Contractor must have the following **minimum** system requirements/capability to use the CHA's Prolog Website System:

(1) PROCESSOR – minimum: Intel® Pentium III 600 MHz or equivalent processor; recommended: 1-gigahertz or faster.

(2) MEMORY – minimum: 192 MB; recommended: 512 MB.

(3) OPERATING SYSTEM – Microsoft® Windows® 2003 Server SP1 (32 bit English version only), Windows Server 2003 R2, Windows XP (Professional-with Service Pack 2), Microsoft Windows Vista (all versions).

(4) BROWSER – minimum: Internet Explorer 5.01, SP2 with Authenticode ® 2.0 (excluding Internet Explorer Macintosh Edition); recommended: Internet Explorer 7.x, or higher.

(5) INTERNET SERVICE PROVIDER AND CONNECTION – Minimum Bandwith: ISDN (128K/s); Recommended: Fractional T1 or higher.

(6) Allow session cookies to pass and ActiveX controls to be downloaded.

(c) Notwithstanding Paragraph 55(b), the Contractor shall maintain such minimum system requirements and capabilities as required for use with any construction project management systems the CHA may choose to implement during the term of the Contract.

56. Value Engineering

(a) The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily to save money or improve performance under this Contract. A VECP is a proposal that requires a change to the existing Contract to implement and results in reducing the Contract price or estimated cost without impairing essential functions or characteristics, provided that it does not involve a change in deliverable end item quantities only or a change only to the Contract type. The Contractor shall share in any net acquisition savings realized from accepted VECP's in accordance with the sharing rates described below.

(b) Net acquisition savings means total acquisition savings, including instant, concurrent, and future Contract savings, less CHA costs. Instant Contract savings are the net cost reductions on this Contract, concurrent savings are measurable net reductions in the prices of other Contracts ongoing at the time the VECP is accepted, and future Contract savings are the product of the future unit cost reduction multiplied by the number of future Contract units scheduled for delivery during the sharing period.

(c) As a minimum, the Contractor shall include in each VECP the following information:

(1) A description of the difference between the existing Contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics *are* being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the Contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for the VECP, compared with current costs.

(4) A description and estimate of the costs the CHA may incur in implementing the VECP.

(5) A statement of the time by which a Contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on

Contract completion time or delivery.

(6) Identification of any previous submission of the VECP

(d) The Contractor shall submit VECP's to the Contracting Officer, who shall notify the Contractor within forty five (45) days after receiving it with a decision as to its acceptance or rejection, unless the Contracting Officer informs the Contractor that additional time is needed for evaluation.

(e) Any VECP may be accepted, in whole or in part, by the Contracting Officer's issuance of a modification to this Contract citing this clause. If the VECP is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for the rejection. The rejection of any VECP submitted is not subject to the disputes and appeals process available to the Contractor for other Contract claims.

(f) The Contractor's share of savings is determined by subtracting CHA costs from instant Contract savings and multiplying the result by fifty percent (50%) for fixed price Contracts or twenty five percent (25%) for cost reimbursement Contracts.

(g) If the VECP is accepted, the Contractor grants the CHA unlimited rights in the VECP, except for data qualifying and submitted as limited rights data in accordance with the Rights in Data clause of this Contract.

57. Drug Free Workplace

(a) The Contractor agrees to maintain a drug free Workplace and shall establish procedures and policies to promote a "Drug-Free Workplace". Further, the Contractor shall notify all employees and subcontractors of its policy for maintaining a "Drug-Free Workplace" and the penalties that may be imposed for drug-abuse violations occurring in the Workplace. The Contractor shall notify the CHA if any of its employees performing Work in connection with this Contract are convicted of a criminal drug offense at the Work Site no later than ten (10) days after such conviction.

(b) This Paragraph 57 shall be included in all subcontracts at any tier.

58. Disposition of Salvageable, Serviceable, and Repairable Materials

(a) Title to all materials obtained from any portion of this Project and the immediate vicinity shall remain the property of the CHA, unless specifically identified by the Contracting Officer in writing, as non-salvageable, non-reparable, or unserviceable. Such unusable materials shall be disposed of or otherwise delivered to designated points in accordance with the instructions below.

(b) Materials classified by the Contracting Officer as salvageable, serviceable or repairable ("Used Material") shall be delivered as directed to a CHA Warehouse or CHA Asset Manager, as identified by the Contracting Officer.

(c) Contractors shall obtain a materials transportation authorization in writing, prior to transporting any Used Materials to the CHA Warehouse or identified CHA Asset Manager. The Contractor shall also obtain the required turn-in documentation from the CHA Warehouse of identified asset manager, at the time of turn-in.

(d) Materials identified in writing by the Contracting Officer as unserviceable, non-repairable or unsalvageable, shall be transported by the Contractor to an authorized land fill or dump site, and shall be disposed of in strict accordance with existing Federal and State of Illinois laws, regulations, and policies and in accordance with all OSHA standards.

(e) A joint inventory will be conducted by the Contractor and the Contracting Officer or its designated representative, prior to the Contractor transporting these materials from the Work Site, at which time both serviceable, salvageable and repairable material, and unserviceable, non-salvageable and un-repairable material will be identified. The Contractor shall be given a copy of this inventory and shall be accountable for this material as indicated above. This joint inventory shall in no way limit or preclude the Contracting Officer from designating additional materials in the above categories during the term of this Contract.

59. Choice of Law and Venue

This Contract, including, but not limited to, its validity, interpretation and performance, and remedies for contract breach or any other claims shall be governed by and construed in accordance with the laws of the State of Illinois. Any action in tort or contract with regard to this Contract or the Project shall be venued in a court of local jurisdiction in Cook County, Illinois, or if a matter of Federal jurisdiction, then in the appropriate U.S. Federal Court for the Northern District of Illinois, located in Chicago, Illinois.

60. Compliance with the Law

The Contractor agrees to comply with all Federal, State and local laws, rules, regulations, standards, ordinances and administrative codes applicable to the performance of the Work, the Project Site, and jurisdictions in which the Contactor conducts its business. In the event of a change in laws, regulations, et al., of which the Contractor becomes aware and which the Contractor believes affects the Work, the Contractor shall inform the CHA, in writing, of the change and its impact on the Work already complete or to be completed. The Contractor shall submit to the CHA a proposed change order detailing any and all additional fees and costs which will arise as a result of the change, as well as any requests for time extensions necessitated by such change. The CHA shall review said proposed change order pursuant to the provisions of Paragraphs 5, 29, and 30 of this Contract. This Paragraph 60 shall be included in all subcontracts at any tier.

61. Disposal of Hazardous and/or Special Waste

The Contractor shall ensure that all hazardous and/or special waste is labeled, packaged, transported, and disposed of in compliance with all applicable Federal, State and local laws, rules, regulations, standards, ordinances, administrative codes and guidelines. Hazardous and/or special waste shall <u>not</u> be disposed of within ten (10) miles of the limits of the City of Chicago. This Paragraph 61 shall be included in all subcontracts at any tier.

62. Joint Ventures

Joint venture agreements must be executed by a principal of each joint venturer. The joint venture agreement must set out, as a minimum, the names and addresses of each joint venture member, each member's extent of authority and control, formation and operation of the management committee, extent of authority and control of the project manager, and the share or interest in the joint venture held by each member. Each joint venture must have a single

managing partner with decision making authority. A copy of the joint venture agreement, in its entirety, must be provided to the CHA with the Contractor's bid. Failure to provide such joint venture agreement, in the sole discretion of the CHA, may result in rejection of the bid or termination of the Contract for default.

63. Independent Contractor

The Contractor is an independent contractor under contract with the CHA and is not in a joint venture, partnership, agent-principal or employer-employee relationship with the CHA. The Contractor represents that it has, or will secure, at its own expense, all personnel required to perform the Work. Such personnel shall not be employees of, nor have any contractual relationship with, the CHA. The Contractor, consistent with its status as an independent contractor, agrees that it or its personnel will not hold themselves out as, nor claim to be, officers, agents, representatives or employees of the CHA. As an independent contractor, the Contractor will maintain complete control of and responsibility for its employees, subcontractors and agents and shall be solely responsible for the means and methods for carrying out the Work and the safety of its agents and employees. The functions, duties and responsibilities of the Contractor with respect to any contractor employed by the CHA in connection with the Project shall be consistent with this Paragraph 63, and in no case shall the Contractor assume any of the obligations of the CHA to any contractor, unless expressly provided for in this Contract.

64. Publicity

During the Term of this Contract and for a period of one (1) year after the expiration or earlier termination thereof, the Contractor shall not release any information related to the Work, the Project, or this Contract, nor publish any reports, articles, or documents, nor make any statements or release to the media, without the prior written approval of the CHA.

65. Affidavits, Certificates, and Representations

The Contractor agrees as a condition precedent to the effectiveness of this Contract that it shall execute and ratify all affidavits, certificates and representations required of it by the CHA, or any other applicable governmental entity, and that said affidavits, certificates and representations shall remain fully accurate and truthful throughout the Term. Should an event occur which causes said affidavits, certificates and representations to be inaccurate or untrue, the Contractor shall immediately notify the CHA in writing. For those affidavits, certificates and representations at Exhibit B which have no provision for individual execution, the Contractor expressly agrees that it effectively executes said affidavits, certificates and representations pursuant to its execution of this Contract effective on the same date and at the same location as the execution of this Contract.

66. Non-Solicitation

The Contractor warrants that it has not:

(a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above Contractor) to solicit or secure this Contract,

(b) Agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out this Contract, or

(c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above Contractor) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this Contract.

67. Severability

Any article or portion thereof of this Contract prohibited by, deemed unlawful, or deemed unenforceable under an applicable law of any jurisdiction shall be ineffective without affecting other provisions of this Contract. If the provisions of such applicable law may be waived, said provisions are hereby waived to the extent that this Contract may be deemed to be a valid and binding Contract in accordance with its provisions. In the event such an article is severed from the Contract, the Contractor and the CHA will in good faith attempt to replace an invalid or unenforceable article with one that is valid and enforceable, and which comes as close as possible to expressing or achieving the intent of the original article.

68. Consequential Damages

Neither the CHA, nor the Contractor, shall be liable to the other for any consequential damages incurred by either due to the fault of the other, regardless of the nature of the fault, or whether it was committed by either, their respective employees, agents or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

69. Exclusive Agreement

This Contract represents the final, entire and integrated agreement between the CHA and the Contractor and supersedes and replaces all terms and conditions of any prior or contemporaneous agreements, communications, arrangements, negotiations, or representations, written or oral, with respect to the Project or the Work.

By:_____ of POWERS & SONS CONSTRUCTION COMPANY, INC. Date:_____
(Signature) (Contractor's Name)

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING
EXHIBIT A
RELEASE AND WAIVER OF LIENS, STOP NOTICES AND CLAIMS

CHA Contract No.: _____ Contract Date: _____
Total Contract Amount $ _____
Less Partial Payments (_____) =
Final Payment $ _____

_____ ("Contractor"), having offices at _____, for and in consideration of the sum of One Dollar, lawful money of the United States, to it paid by the Chicago Housing Authority, and other valuable considerations, the receipt whereof is hereby acknowledged, has remised, released, and forever discharged, and by these presents does for itself, its successors and assigns, remise, release and forever discharge the CHA and their successors and assigns, of and from all, and all manner of actions and/or claims whatsoever, to include, but not limited, to liens, stop notices, claims against bonds and any notices thereto, in law or in equity, arising out or on account of any monies due and/or to grow due to the extent of any and all services provided, labor performed, equipment delivered and materials furnished and/or services performed pursuant to the referenced Contract and/or for the improvement of real property, which against the CHA, Contractor ever had, now has, or which it, its successors or assigns hereafter can, shall, or may have, for, upon, or by reason of any and all labor, services, equipment and/or materials omitted to be performed or furnished in connection with the said Contract, for the period commencing with the execution of the Contract, or beginning of provision of Contractor's materials and/or services, whichever is earlier, and ending on _____, 20__.

Contractor hereby agrees that the aforesaid final payment is the final amount due and to come due under said Contract and that changes in computations made hereafter shall not inure to the benefit or loss of Contractor.

Contractor hereby agrees that it shall indemnify and hold harmless the CHA and their successors and assigns, of and from all, and all manner of actions and/or claims whatsoever, to include, but not limited to, liens, stop notices, claims against bonds and any notices thereto, in law or in equity, arising out or on account of any monies due and/or to grow due to the extent of any and all services provided, labor performed, equipment delivered and materials furnished and/or services performed by Contractor's lower-tier subcontractors, consultants, materialmen, and supplies pursuant to the Project during the period commencing with the execution of the Contract, or beginning of provision of Contractor's materials and/or services, whichever is earlier, and ending on _____, 20__.

IN WITNESS WHEREOF, the said Contractor has caused its corporate seal to be affixed hereto and these presents to be executed by its duly authorized officers this _____ day of _____, 20__.

_____
(Contractor)

(Corporate Seal)
Attest:

_____
Corporate Secretary

By: _____
(Signature of Officer of Contractor)

_____
(Typed Name and Title)

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING
CORPORATE REPRESENTATIVE

State of INDIANA

County of LAKE

On this _____ day of _____, 2015 before me personally appeared _____ to me known and a signatory of the foregoing instrument, who being by me first duly sworn did depose and say that said signatory resides in VALPARAISO in the State of INDIANA, that said signatory is the CEO of POWERS & SONS CONST., the corporation described in and which executed the foregoing instrument; that said signatory knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal, and that it was affixed thereto by order of the Board of Directors of said corporation, and said signatory signed its name thereto by like authority.

Notary Public

My Commission Expires:

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING
INDIVIDUAL OR SOLE PROPRIETORSHIP REPRESENTATIVE

State of _____

County of _____

On this ___ day of _____, 20__, _____, before me personally appeared _____, a signatory of the foregoing instrument, and known to me to be the individual described in and who executed the foregoing instrument and said signatory acknowledged to me that said signatory executed the same.

_____
Notary Public

My Commission Expires:

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING
PARTNERSHIP REPRESENTATIVE

State of _____

County of _____

On this _____ day of _____, 20__, before me personally came _____, to me personally known and a signatory of the foregoing instrument, and known to me as a member of the firm of _____ and known to be the individual described in, and who executed the foregoing instrument in the firm name of _____, and has acknowledged to me that said signatory executed the same for and on behalf of the firm.

_____
Notary Public

My Commission Expires:

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING
EXHIBIT B

AFFIDAVITS, CERTIFICATES AND REPRESENTATIONS
CERTIFICATION OF NONSOLICITATION

I hereby certify that I am the (Title) CEO and duly authorized representative of the firm of (Name of Firm, Address) POWERS & SONS CONST., and that neither I nor the above firm I here represent has:

(a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above consultant) to solicit or secure this Contract,

(b) Agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out this Contract, or

(c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above Contractor) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this Contract, except as here expressly stated (if any). I acknowledge that this certificate is to be furnished to the CHA for forwarding to the Department of Housing and Urban Development in connection with this Contract involving participation of Federal funds, and is subject to applicable state and federal laws, both criminal and civil.

Signed at 2636 WEST 15TH AVENUE, GARY, IN 46404

On this _____ day of _____, 2015, for:

POWERS & SONS CONSTRUCTION COMPANY, INC.
(Firm)

Witness

Signature

MAMON POWERS, JR.
Name

CEO
Title

SPECIAL CONDITIONS – RFP- 14-01328

TASK ORDER COMPETITIVE CONTRACTING

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND VOLUNTARY EXCLUSIONS

(1) The Contractor certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, debarred or voluntarily excluded from covered transactions by any Federal department or agency and/or the CHA;

(b) Have not within a three (3) year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

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

(d) Have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this Contract.

Signed at 2636 WEST 15TH AVENUE, GARY, IN 46404

On this _____ day of _____, 20 15 for:

POWERS & SONS CONSTRUCTION COMPANY, INC.

(Firm)

Witness

Signature

MAMON POWERS, JR.

Name

CEO

Title

SPECIAL CONDITIONS – RFP- 14-01328
TASK ORDER COMPETITIVE CONTRACTING
CERTIFICATE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Contract, the Contractor for itself, its assignees and successors in interest (collectively, "Contractor"), agrees as follows:

(a) Compliance with Regulations:

Contractor will comply with the Regulations of the CHA relative to nondiscrimination in Federally-assisted programs of the CHA (Title 49), Code of Federal Regulations, Part 21, ("Regulations"), which are herein incorporated by reference and made a part of this Contract.

(b) Nondiscrimination:

Contractor, with regard to the Work performed by it after award and prior to completion of this Contract, will not discriminate on the grounds of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap age, marital status mental status or public assistance status in the selection and retention of lower-tier subcontractors (if any), including procurements of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when this Contract covers a program set forth in Appendix B of the Regulations.

(c) Solicitations for Lower-Tier Contractors, Including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding or negotiation made by Contractor for Services to be performed under a lower-tier Contractor agreement, including procurements of materials or equipment, each potential lower-tier Contractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status.

(d) Information and Reports:

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by CHA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the CHA and shall set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance:

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the CHA shall request the Department of Housing and Urban Development to impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

(1) Withholding of payments to the Contractor under this Contract until the Contractor complies, and/or

(2) Cancellation, termination or suspension of this Contract, in whole or in part.

(f) Incorporation of Provisions:

The Contractor will include the provisions of paragraphs (a) through (f) in every lower-tier subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Contractor will take such action with respect to any lower-tier subcontractor as may be directed by the CHA or the Department of Housing and Urban Development to make as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the Contractor becomes involved in, or is threatened with, litigation with a lower-tier subcontractor or supplier as a result of such direction, the Contractor may request through the CHA that the Department of Housing and Urban Development enter into such litigation to protect the interests of the Department of Housing and Urban Development, and, in addition, the Contractor may request through the CHA that the United States enter into such litigation to protect the interests of the United States.

CERTIFICATE OF COMPLIANCE WITH EQUAL OPPORTUNITY STATUTES AND POLICIES OF THE CHA

(a) Selection of Labor:

During the performance of this Contract, the Contractor shall not discriminate against labor from any other state, possession, or territory of the United States.

(b) Employment Practices:

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

(1) The Contractor will not discriminate against any employee or any applicant for employment because of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, national origin, age or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CHA setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status.

(3) The Contractor 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 CHA advising the said labor union workers' representative of the Contractor's commitments under Employment Practices and shall post all copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR Part 6C) and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of Employment Practices in every lower-tier 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 lower-tier subcontractor or vendor. The Contractor will take such action with respect to any lower-tier subcontract or purchase orders as the CHA may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the CHA, the Contractor may request that the United States enter into such litigation to protect the interests of the United States.

(c) Selection of Lower-Tier Contractors, Procurement of Materials, and Leasing of Equipment:

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (collectively, "Contractor") agrees as follows:

(1) Compliance with Regulations: The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the CHA, Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this Contract;

(2) Nondiscrimination: The Contractor, with regard to the Work performed by it during this Contract, shall not discriminate on the grounds of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status in the selection and retention of lower-tier subcontractors including procurements of materials and leases

of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations;

(3) Solicitations for lower-tier subcontractors, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Contractor for Services to be performed under this Contract, including procurements of materials or leases of equipment, each potential Contractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status.

(4) Information and Reports: The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CHA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the CHA, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the CHA shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to withholding of payments to the Contractor under this Contract until the Contractor complies; and/or cancellation, termination or suspension of this Contract, in whole or in part.

(6) Incorporation of Provisions: The Contractor shall include the provisions of this paragraph (c) in every lower-tier subagreement, including agreements for the procurement of materials and leases of equipment, unless the Contractor is exempt from such requirement by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any lower-tier subcontractor or procurement as the CHA may direct as a means of enforcing such provisions including sanctions for noncompliance:

(7) Provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a lower-tier subcontractor or supplier as a result of such direction, the Contractor may request the CHA to enter into such litigation to protect the interests of the CHA, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(d) Nonsegregated Facilities

(Applicable to Federal-aid contracts and related subcontracts exceeding $10,000, which are not exempt from the Equal Opportunity clause.)

By the execution of this Contract, the Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not

permit its employees to perform their services at any location under its control, where segregated facilities are maintained. It agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification from proposed lower-tier subcontractors and material suppliers for specific time periods, it will obtain identical certification from proposed lower-tier subcontractors or material suppliers prior to the award of lower-tier subcontracts or the consummation of material supply agreements, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that it will retain such certifications in its files.

CERTIFICATE OF PARTICIPATION BY DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS 49 CFR Part 23 as Amended

It is the policy of the CHA that disadvantaged and women-owned business enterprises (DBEs and WBEs respectively) as defined in 49 CFR Part 23, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the DBE and WBE requirements of 49 CFR Part 23, as amended, apply to this Contract.

The Contractor agrees to ensure that DBEs and WBEs as defined in 49 CFR Part 23, as amended, have maximum opportunity to participate in the performance of lower-tier subcontracts financed in whole or in part with Federal funds provided under this Contract.

Further, the Contractor agrees to provide the CHA with information on the dollar amount and name of each lower-tier subcontractor who identifies itself as DBE or WBE.

In this regard the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 23, as amended, to ensure that DBEs and WBEs have the maximum opportunity to compete for and perform lower-tier subcontracts. The Contractor shall not discriminate on the basis of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability, handicap, age, marital status, mental status or public assistance status in the award and performance of CHA assisted contracts.

The Contractor agrees that failure to carry out the requirements set forth herein shall constitute a breach of contract and, after the notification to the CHA, Contractor may be terminated from this Contract by the CHA or such other action or remedy as the CHA deems appropriate.

EXHIBIT IV

ILLINOIS EQUAL OPPORTUNITY CLAUSE

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS
PART 750 PROCEDURES APPLICABLE TO ALL AGENCIES
SECTION 750.APPENDIX A EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

Section 750.APPENDIX A Equal Employment Opportunity Clause

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Act, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.

4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and this Part, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

5) That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.

6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 35 Ill. Reg. 3695, effective February 18, 2011)

EXHIBIT V

COMPLIANCE AFFIDAVIT

CHICAGO HOUSING AUTHORITY (CHA)
Department of Procurement & Contracts Contract Compliance Division

RFP/RFQ/Bidder/Proposers' M/W/DBE & Section 3 Contract Compliance Affidavit

RFP/IFB/CONTRACT/PURCHASE ORDER NO: RFP 14-01328 DATE FORM COMPLETED: August 19, 2014

PROJECT TITLE: Task Order Competitive Contracting

DEVELOPER NAME: N/A

PRIME CONTRACTOR NAME(S): Powers & Sons Construction Company, Inc.

ADDRESS: 5040 S. State Street, Chicago, IL 60609 TELEPHONE: ( ) 773.536.2200

CONTACT NAME/TITLE: Claude Powers/ President

E-MAIL ADDRESS: powers@powersandsons.com

Ethnicity: African American Gender: Male

FEDERAL TAX IDENTIFICATION OR SOCIAL SECURITY NO. : [redacted]

CONTRACT AMOUNT: $

As a respondent to CHA IFB/RFP/CONTRACT or PO NUMBER RFP 14-01328 do hereby affirm that I understand and fully support the policy and regulations set forth in the Amendment to Special Conditions M/W/DBE Utilization Plan, the Section 3 Policy (hereafter referred to as the Policies), and Davis-Bacon and Related Acts (when applicable).

Given that contracts awarded for work under this IFB/RFP/CONTRACT are subject to the future issuance of contracts whose amounts will constitute the actual dollar amount, I understand that my M/W/DBE Utilization (Schedules A and C) and Section 3 Utilization (Schedule B) Plans will be required to be submitted on each award to reflect actual contract amounts to the listed contractors.

Based upon the total amount of the award as constituted by all issued awards, I agree to fully comply with the minimum participation goals as outlined in the Policies and the following reporting requirements:

- Submit within five (5) business days of issuance of an award, copies of all resultant subcontractor agreements with approved certified M/W/DBE firms, and
- On a monthly basis an updated payment report must be entered for every subcontractor (M/W/DBE and non-minority subcontractors) into B2Gnow (CHA's electronic payment monitoring software for contractors and subcontractors)
- Submit weekly/bi-weekly payrolls for service contracts with the Schedule D- Hiring Report via LCPtracker (CHA's online payroll monitoring software)

CHICAGO HOUSING AUTHORITY (CHA)
Department of Procurement & Contracts Contract Compliance Division

RFP/RFQ/Bidder/Proposers' M/W/DBE & Section 3
Contract Compliance Affidavit

I further understand that any changes to my approved M/W/DBE and Section 3 Utilization Plans require the approval of the Department of Procurement & Contracts' Contract Compliance Division.

ACKNOWLEDGEMENT:

(Authorized Principal or Agent Signature

August 19, 2014
Date

APPROVED:

(Contract Compliance Specialist)

7/2/15
Date

EXHIBIT VI

CONTRACTOR'S AFFIDAVIT

CHICAGO HOUSING AUTHORITY
Department of Procurement & Contracts
CONTRACTOR'S AFFIDAVIT

Bidder/Proposer Name: Powers & Sons Construction Company, Inc.
Bidder/Proposer Address: 5040 S. State Street
Chicago, IL 60609

IFB/RFP NUMBER: RFP No. 14-01328

Federal Employee I.D. #: [redacted] or Social Security #: _____

Instructions: **FOR USE WITH ALL CONTRACTS.** Every Contractor submitting a bid/proposal to the Chicago Housing Authority ("CHA") must complete this Contractor's Affidavit. Special attention should be paid to those Sections which require the Contractor to provide certain information to the CHA. The Contractor should complete this Contractor's Affidavit by signing and notarizing Section XIV. Please note that in the event the Contractor is a joint venture, the joint venture and each of the joint venture partners must submit a separate and completed Contractor's Affidavit. In the event the Contractor is unable to certify to any of the statements contained herein, the Contractor must contact the Department of Procurement and Contracts of the CHA and provide a detailed factual explanation of the circumstances leading to the Contractor's inability to so certify.

The undersigned Claude Powers (Name) as President (Title)

and on behalf of Powers & Sons Construction Company, Inc. (Business Name) ("Contractor") having been duly sworn under oath certifies that:

I. DISCLOSURE OF OWNERSHIP INTERESTS

All bidders/proposers/contractors shall provide the following information with their bid/proposal/contract. Complete all blanks by entering the requested information or if the question is not applicable, answer with "NA". If the answer is none, please answer "none".

Bidder/Proposer is a: (Check One)	[x]	Corporation	[ ]	Sole Proprietor
	[ ]	Partnership	[ ]	Not-for-Profit Corporation
	[ ]	Joint Venture	[ ]	Other

CHICAGO HOUSING AUTHORITY
Department of Procurement & Contracts
CONTRACTOR'S AFFIDAVIT

Average Annual Sales – Last 3 years: $32,983,000

Current Net Worth: $7,694,000 Date Business Started February 21, 1967

SECTION 1. FOR PROFIT CORPORATIONS

a. Incorporated in the State of Indiana.
b. Authorized to do business in the State of Illinois YES [x] NO [ ]
c. Names of all officers of corporation (or Attach List): Names of all directors of corporation (or Attach List):

NAME (Print/Type)	Title (Print/Type)	Name (Print/Type	Title (Print/Type)
Mamon Powers, Jr.	CEO	Wanda Roberts	Treasurer
Claude Powers	President		
Mamon Powers, III	Executive Vice President		
Kevin Mikesell	Vice President/ Secretary		

d. If the corporation has fewer than 100 shareholders, indicate here or attach a list of names and addresses of all shareholders and the percentage interest of each.

NAME (PRINT/Type)	Address	Ownership Interest
Mamon Powers, Jr.	2636 W. 15th Ave Gary, IN 46404	35 %
Claude Powers	2636 W. 15th Ave Gary, IN 46404	50 %
Mamon Powers, III	2502 Roosevelt Ave. Indianapolis, IN 46218	15 %
		%

e. Is the corporation owned partially or completely by one or more other Corporations?
YES [ ] NO [x]

f. If the corporation has 100 or more shareholders, indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of 10%

of the proportionate ownership of the corporation and indicate the percentage interest of each.

NAME (PRINT/Type)	Address	Ownership Interest
ONLY 3 SHAREHOLDERS LISTED ABOVE		%
		%
		%
		%

NOTE: Generally, with corporations having 100 or more shareholders where no shareholder owns 10% of the shares, the requirements of this Section 1 would be satisfied by the bidder/proposer enclosing, with its bid/proposal, a copy of the corporation's latest published annual report and/or Form 10-K if the information is contained therein.

SECTION 2. PARTNERSHIP N/A

If the bidder/proposer is a partnership, indicate the name of each partner (or attach list) and the percentage of interest of each therein.

NAME OF PARTNERS (Print/Type)	PERCENTAGE INTEREST
	%
	%
	%
	%

SECTION 3. SOLE PROPRIETORSHIPS N/A

a. The bidder/proposer is a sole proprietor and is not acting in any representative capacity in behalf of any beneficiary: YES [ ] NO [ ]
If NO, complete items b. and c. of this Section 3.

b. If the sole proprietorship is held by an agent(s) or a nominee (s), indicate the principal(s) for whom the agent or nominee holds such interest.

Name(s) of Principal(s) (Print/Type)

_____
_____
_____
_____

c. If the interest of a spouse or any other party is constructively controlled by another person or legal entity, state the name and address of such person or entity possessing such control and the relationship under which such control is being or may be exercised:

_____
_____
_____
_____

SECTION 4. NOT-FOR-PROFIT CORPORATIONS N/A

a. Incorporated in the State of _____.
b. Authorized to do business in the State of Illinois YES [ ] NO [ ]
c. Names of all officers of corporation (or Attach List): Names of all directors of corporation (or Attach List):

NAME (Print/Type)	Title (Print/Type)	Name (Print/Type	Title (Print/Type)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: The General Counsel may require any such additional information from any entity to achieve full disclosure relevant to the Contract. Further, any material change in the information required above must be provided by supplementing this statement at any time up to the time the Director of Procurement and Contracts takes action on the Contract or other action required of the General Counsel.

II. CONTRACTOR CERTIFICATION

A. CONTRACTOR'S ANTI-COLLUSIVE AFFIDAVIT

1. The Contractor or any subcontractor to be used in the performance of this contract, or any affiliated entity of the Contractor or any such subcontractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such subcontractor or any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three (3) years prior to the date of execution of this Contractor's Affidavit or if a subcontractor or subcontractor's affiliated entity during a period of three (3) years prior to the date of award of the subcontract:

    a. Violated any of the provisions of 18 U.S.C. §666 (a) (2) and 720 ILCS 5/33E-1 et seq.

    b. Bribed or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of the CHA, the State of Illinois, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or

    c. Agreed or colluded, or been convicted of an agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or

    d. Made an admission of guilt of such conduct described in 1(a) and (b) above which is a matter of record but has not been prosecuted for such conduct.

2. The Contractor or any agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of Federal, state or local government as a result of engaging in or being convicted of bid-rigging in violation of the Illinois Criminal Code, 720 ILCS 5/33e-3, or any similar offense of any state of the United States which contains the same elements as the offense of bid-rigging during a period of five (5) years prior to the date of submittal of this bid, proposal or response.

3. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating in violation of the Illinois Criminal Code, 720 ILCS 5/33E-

4, or any similar offense of any state of the United States which contains the same elements as the offense of bid-rotating.

4. Additionally, that the undersigned is the party making the foregoing proposal or bid, that such bid or proposal is genuine and not collusive, and that said bidder/proposer has not colluded, conspired, connived or agreed, directly or indirectly with any proposer or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other proposer, to fix overhead, profit or cost element of said proposal price, or that of any other proposer and has not secured any advantage against the Chicago Housing Authority or any person interested in the proposed contract, nor has said proposer participated with any person or business entity in any collusive scheme to rotate proposals, provide any bribes, kickbacks to CHA employees in violation of any of the provisions of 18 U.S.C. §666 (a) (1) and 720 ILCS 5/33E-1 et seq; or engage in bid rigging; that proposer is not barred from bidding on the subject contract as a result of a violation of either Section 33-E-3 or 33-E-4 of the Illinois Criminal Code, 720 ILCS 5/33E-1 et seq; and that all statements on said proposal are true. Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Contractor's Affidavit are true and correct.

5. The Contractor, its agent, officers or employees have not directly or indirectly solicited non-public information from a CHA officer or employee; entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal in violation of Illinois Criminal Code, 720 ILCS5/33E-1 et seq. Failure to submit this statement as part of the bid/proposal will make the bid non-responsive and not eligible for award consideration.

B. SUBCONTRACTOR'S ANTI-COLLUSION AFFIDAVIT

1. The Contractor has obtained from all subcontractors to be used in performance of this contract, known by the Contractor at this time, certifications in form and substance equal to Sub-Section A of Section II of this affidavit.

2. The Contractor will, prior to using any subcontractor(s), obtain from such all subcontractor(s) to be used in the performance of this contract, but not yet known by the Contractor at this time certifications in form and substance equal to the certification Subsection A of Section II of this Affidavit. The Contractor shall not, without the prior written permission of the CHA, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, becomes aware of such subcontractor, subcontractor's

affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of any of the conduct described in Section II (A) hereof.

3. The Contractor will maintain on file for the duration of the contract all certifications required by Section II for any subcontractors to be used in the performance of this contract and will make such certifications promptly available to the CHA upon request.

4. The Contractor will not, without the prior written consent of the CHA, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification in form and substance equal to the certification.

5. Contractor hereby agrees, if the CHA so demands, to terminate its subcontract with any subcontractor, if such Contractor or subcontractor was ineligible at the time that the subcontract was entered into for award of such subcontract under the State of Illinois Criminal Code 720 ILCS 5/33e-1 eq seq. as amended. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontracts as required by this Section II.

Notes 1-4 For Section II. Contractor's Certification

1. Business entities are affiliated if, directly or indirectly, one controls or has the power to control the other, or if a third person control or has the power to control both entities. Indicia of control include without limitation: interlocking management or ownership identity of interests among family members; shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity using substantially the same management, ownership or principals as the ineligible entity.

2. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction, under either Section 33E-3 or Section 33E-4 of Article 33 of the State of Illinois Criminal Code of 1961, as amended, of any employee or agent of such corporation if this employee so convicted is no longer employed by the corporation and: (1) it has been finally indicated not guilty or (2) if it demonstrate to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of the State of Illinois Criminal Code.

3. For purposes of Section II (A) of this certification, a person commits the offense of and engages in bid-rigging when he knowingly agrees with any person who is, or but for such agreement should be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of State or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent non-collusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted (See, 720 ILCS 5/33E-3).

4. For purpose of Section II (A) of this certification, a person commits the offense of and engages in bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes hereof, shall include at least 3 contract bids within a period of ten years, the most recent of which occurs after January 1, 1989) of submitting sealed bids to units of State or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contract (See, 720 ILCS 5/33E-4).

III. STATE TAX DELINQUENCIES

In completing this Section III, authorized signatory must initial on the line next to the appropriate subsection.

1. ___ Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, Contractor is contesting such delinquency in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.

2. _____ Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.

3. _____ Contractor is delinquent in the payment of any tax administered by the Department of Revenue and is not covered under any of the situations described in subsections 1 and 2 of this Section III, above 1.

1. 65 ILCS 5/11 – 42.1 – 1 provides that a municipality may not enter into a contract or agreement with an individual or other entity that is delinquent in the payment of any tax

administered by the Illinois Department of Revenue unless the contracting party is contesting, in accordance with the procedures established by the appropriate Revenue Act its liability for the tax or the amount of the tax or unless the contracting party has entered into an agreement to pay the tax and is in compliance with the Agreement. Notwithstanding the above, the CHA may enter into the contract if the CHA's Operating Officer determines that:

1) the contract is for goods or services vital to the public health, safety, or welfare; and
2) the CHA is unable to acquire the goods or services at a comparable price and of comparable quality from other sources.

IV. PUNISHMENT

A Contractor or subcontractor who makes a false statement, material to Section II (A) and (B) of this certification commits a 3 class felony. 720 ILCS 5/33e-11(B). Making a false statement concerning Section III of this certification is a Class A misdemeanor, voids the Contract or and allows the CHA to recover all amounts paid to the Contractor under the contract in a civil action. 65 ILCS 5/11-42.1-1.

V CERTIFICATION REGARDING SUSPENSION AND DISBARMENT

A. The Contractor certifies to the best of its knowledge and belief, that it and its principals:

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

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

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offense enumerated in Section II (A) (1) above; and

4. Have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State or Local) terminated for cause or default.

B. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall attach a detailed factual explanation to this certification.

C. If any subcontractors are to be used in the performance of this Contract, the Contractor shall cause such subcontractors to certify as to paragraph of this Certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach a detailed factual explanation to this certification.

VI. EPA CONTRACTOR LISTING

A. Bidder/Proposer/Contractor shall comply with all applicable standards, orders and/or requirements established by and/or pursuant to:

1. The Clean Air Act (42. U.S.C. 4701 et. seq.), as amended;
2. The Clean Water Act (33 U.S.C. 1251 et. seq.), as amended;
3. The Solid Waste Disposal Act as amended by the Resources Conservation and Recovery Act (RCA) of 1976 (42 U.S.C. 6901, et. seq.), as amended;
4. The Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 et. seq.), as amended;
5. Occupational Safety and Health Administration (OSHA) regulations, and any amendments thereto;
6. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 et. seq.), as amended;
7. Illinois Environmental Protection Agency regulations, as amended;
8. Illinois Department of Labor regulations, as amended;
9. City of Chicago Ordinances, as amended;

B. Bidder/Proposer/Contractor shall not use any facility on the Environmental Protection Agency's ("EPA") List of Violating Facilities in the performance of this Contract for the duration of time that the facility remains on the List.

C. Bidder/Proposer/Contractor shall immediately notify HUD which has awarded funds for this project if a facility it intends to use in the performance of this Contract is on the EPA's List of Violating Facilities or knows that it has been recommended to be placed on the List of Violating Facilities.

D. Furthermore, Bidder/Proposer/Contractor shall, in the performance of this Contract, comply with all requirements of the Clean Air Act ("CAA"), 42 U.S.C. §7401-7642 and the Clean Water Act ("CWA"), 33 U.S.C. §1251-1387, including the requirements of Section 114 of the CAA and Section 308 of the CWA, and all other applicable clean air standards and clean water standards.

VII. CERTIFICATION OF RESTRICTION ON LOBBYING

THE CONTRACTOR CERTIFIES THAT:

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

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

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

D. This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 or more than $100,000 for each such failure.

VIII. CERTIFICATION OF NONSEGREGATED FACILITIES

As used in this Affidavit, the term "subcontract" includes the term "purchase order" and all other agreements effectuating purchase of supplies or services. If this Affidavit is submitted as part of a bid or proposal, the term "Contractor" shall be deemed to refer to the Bidder or proposer, or subcontractor or supplier. This Affidavit shall be renewed annually. Notwithstanding the foregoing, the certifications made herein shall remain applicable until completion of all nonexempt contracts/subcontracts awarded while this Affidavit is in effect. The undersigned Contractor certifies the following to the CHA

A. REPORTS: Within thirty (30) days after CHA award to the Contractor of any contract/subcontract and prior to each March 31 thereafter during the performance of work under said subcontract, the Contractor shall file Standard Form 100, entitle "Equal Employment Opportunity Employer Information Report EEO" in accordance with instructions contained therein, unless the Contractor has either filed such report within 12 months preceding the date of the award or is not otherwise required by law or regulation to file such a report.

B. PRIOR REPORTS: If the Contractor has participated in a previous contract or subcontract subject to Equal Opportunity Clause (41 C.F.R. Sec 60-1.4(a) (1) through (7), or the clause originally contained in Section 301 of Executive Order No. 10925, or the clause contained in Section 201 of the Executive Order No. submission of all required compliance reports, signed by proposed subcontractors, prior to awarding subcontracts not exempt from the Equal Opportunity Clause.

C. CERTIFICATION OF NONSEGREGATED FACILITIES: The Contractor 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 Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in the IFB or RFP. As used in this certification, the term "segregated facilities" means waiting room, waiting area, 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 which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. The Contractor further

agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of Contracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that the CHA will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A certification of Non-segregated Facilities, as required by Section 60-1.8 of Title 41 of the Code of Federal Regulations, must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity Clause. (Note: The penalty for making false statement in offers is prescribed in 18 U.S.C. 1001).

D. The Contractor certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other such notification of non-compliance with EEO regulations.

NOTE: THE PENALTY FOR MAKING FALSE STATEMENTS IN BIDS/PROPOSALS IS PRESCRIBED IN 18 U.S.C. 1001.

IX. EQUAL EMPLOYMENT OPPORTUNITY

The Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR Part 60) require that each prospective contractor or proposed subcontractor submit the following information with his bid, or at the outset of negotiations.

A. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

YES x NO _____

B. If answer to 1, is yes, have you filed with the Joint Reporting Committee, the Director of OFCC, any Federal agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements of these organizations?

YES _____ NO x

X. DAVIS – BACON CERTIFICATION

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

C. Furthermore, the Contractor hereby certifies that the information contained in this Affidavit and representation, are accurate, complete and current. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

XI. SECTION 3 CERTIFICATION

For all contracts where Section 3 is applicable, the Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.1 et seq and CHA Resolutions implementing Section 3 requirements. The Prime Contractor will submit a Schedule B-Section 3 Utilization Plan to identify employment, subcontracting, and other economic opportunities for CHA residents and low- and very low-income Chicago area residents during the term of the contract between the Prime Contractor and CHA.

XII. INCORPORATION INTO CONTRACT AND COMPLIANCE

The above certifications set forth in this Contractor's Affidavit shall become part of Contract No. TBD and incorporated by reference as if fully set forth therein. Further, the Contractor shall comply with these certifications during the term of the Contract.

XIII. ETHICS POLICY

The Contractor hereby certifies that it shall comply with all the applicable provisions of the CHA's Ethics Policy adopted by the CHA Board on June 2004, 95-HUD-5 especially Sections 19 through 25 thereof. The Contractor further certifies that it has received and read a copy of the CHA's Ethics Policy.

CHICAGO HOUSING AUTHORITY
Department of Procurement & Contracts
CONTRACTOR'S AFFIDAVIT

XIV. VERIFICATION

Under penalty of perjury, I certify that I am authorized to execute this Contractor's Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

Claude Powers

Signature of President or Authorized Officer

Claude Powers

Name of President or Authorized Officer

President

Title

(773)536-3100

Telephone Number

State of Indiana)
)
County of Lake)

Signed and sworn to before me this 19th day of August, 2014 by

Claude Powers (Name) as President

(Title) of Powers & Sons Construction Company, Inc. (Contractor)

Notary Public Signature Tamara L. Wright

"OFFICIAL SEAL"
TAMARA L. WRIGHT
Resident of Lake County, IN
My commission expires
August 12, 2020