

**Addendum to HUD Form 51915 between the Minneapolis Public Housing
Authority
and Design Professional - Architectural/Engineering (A/E) Services**

INTRODUCTION

This Addendum to HUD Form 51915 (collectively, the "Contract") between the Minneapolis Public Housing Authority ("MPHA") and _____ ("DP") is entered into this ___ day of _____, 2017.

Services shall begin on the ___ day of _____, 2017, and shall end on the ___ day of _____, 2018, unless otherwise extended, modified, terminated or renewed by the parties as provided for in this Contract. The term "herein" refers to HUD Form 51915, this Addendum and all listed appendices. The term "RFP" refers to Request for Proposals No. P17008.

1.0 Services and Payment.

1.1 Scope of Services. The services provided under this Contract generally consist of Architectural/Engineering Services as described herein and specifically within Appendix 5, Scope of Services. Said services shall be provided on an as needed basis as determined by the MPHA. The MPHA shall retain the right to implement and/or enforce any item issued as a part of the RFP.

1.2 Provisions of any and all Work. The DP shall not begin any work without the receipt of an Implementing Order (I/O) signed or issued by the authorized MPHA representative. The I/O will specify the scope of work, deliverables, timeframe and an agreed upon cost based on the fees outlined in Appendix 3, attached and incorporated herein. All such I/Os will be attached and incorporated into this Contract.

1.3 Billing Method.

1.4.1 To receive payment for services rendered under this Contract, the DP shall submit a fully completed invoice for work previously performed to:

**Minneapolis Public Housing Authority
Attention: Accounts Payable, Suite 307
1001 N. Washington Avenue, Minneapolis, MN 55401**

1.4.2 At a minimum, the invoice shall detail the following information:

1.4.2.1 Unique invoice number;

1.4.2.2 The DP's name, address and telephone number;

1.4.2.3 Date of invoice and/or billing period;

1.4.2.4 Applicable Contract Number; and

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1.4.2.5 Detailed description of services rendered, including the identity of personnel performing the task and their hourly rate and the total hours being billed for each Service.

1.4.3 Billings for services shall be in proportion to services completed within each phase of the work unless modified in the I/O.

1.4.4 The DP shall deliver to the MPHA an invoice each month for services performed the previous month.

1.4.5 The MPHA will pay each properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the DP complies with the applicable provisions of this Contract.

2.0 **DP's Obligations.** DP agrees to provide the specific services detailed herein and also shall be responsible for the following:

2.1 **Supervision and Oversight.** The DP shall be solely responsible for providing supervision and oversight to all of the DP's personnel assigned to the projects under this Contract.

2.2 **Qualified Personnel.** The DP warrants and represents that it will assign only qualified personnel to perform the services outlined herein. For the purposes of this Contract, the term "qualified personnel" shall mean those personnel who have been appropriately screened, tested and trained in the manner described within this Contract and as proposed by the DP in its proposal or as provided by the DP during the DP's normal conduct of business.

2.3 **Insurance Requirements.** The DP shall purchase and maintain insurance as required to protect the DP and the MPHA from claims set forth in items 2.4.1 through 2.4.4 below that may arise out of, result from, or are in any manner connected with: (1) the execution of the work under this Contract, or (2) occur or result from the use by the DP, its agents or employees, of materials, equipment, instrumentalities or other property, whether the same be owned by the MPHA, the DP, subcontractors or third parties. The insurance required hereunder shall be effective and apply whether such claims arise by the DP or by anyone directly or indirectly employed by the DP or by anyone for whose acts the DP may be liable.

The DP shall require its subcontractors to comply with all insurance requirements in this Contract. The DP shall at all times be responsible for determining and ensuring that its subcontractors are insured as required by the Contract. The premiums, costs, and charges for any such insurance shall be paid by each subcontractor at its own expense. The insurance required to be obtained under the Contract shall be written for not less than the limits of liability specified below or required by law, whichever is greater. The types of claims, required coverage and minimum limits of liability are as follows:

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2.3.1 Worker's Compensation Insurance/Employer's Liability. Claims under the DP's Workers' Compensation disability benefit and other similar employee benefit acts; claims for damages because of bodily injury, occupational sickness or disease or death of employees. Insurance coverage shall include Statutory Workers' Compensation, including Employers Liability with a minimum limit of \$500,000 each accident, \$500,000 Disease-Policy Limit, \$500,000 Disease Each employee.

2.3.2 General Liability Insurance. Claims for damages because of bodily injury, occupational sickness or disease, or death, by any person other than employees; claims for personal injuries which are sustained by (1) any person as a result of an act or omission directly or indirectly related to the employment of such person by the DP, or (2) any other person; claims for damages because of injury to or destruction of tangible property including loss of use resulting there from. Insurance coverage shall include:

- Premises - Operations
- Products - Completed Operations
- Blanket Contractual Liability
- Broad Form Property Damage
- Personal Injury
- Operations of Independent DPs

Policy Limits:	General Aggregate	\$1,500,000
	Products/Completed Operations Aggregate	\$1,500,000
	Personal Injury	\$1,500,000
	Each Occurrence	\$1,500,000

The General Aggregate coverage shall apply to each project of the DP under the DP's Commercial General Liability Policy. Commercial General Liability insurance required under this paragraph shall be written on an occurrence form and shall include coverage for Products/Completed Operations.

2.3.3 Automobile Liability Insurance. Claims for damages because of bodily injury or death of any person, or any property damage, arising out of the ownership or use of any motor vehicle. Insurance coverage shall include Commercial Automobile Liability insurance including owned, hired and non-owned vehicles with limits of liability of \$1,000,000 Combined Single Limit for each occurrence for bodily injury and death, or property damage.

2.3.4 Professional Liability Insurance. Professional Liability Coverage for negligent acts, errors or omissions arising out of the performance of professional services included in this Contract in the minimum limit of liability of \$1,500,000 per claim.

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The limits of liability specified above shall be considered minimum requirements. Approval of the insurance by the MPHA shall not relieve or decrease the liability of the DP. The MPHA does not in any way represent that the insurance or limits of insurance specified above are sufficient or adequate to protect the DP's interests or liabilities, but are minimums. Employer's Liability, Commercial General Liability, Automobile Liability, and Builder's Risk insurance may be arranged under single policies for full minimum limits required, or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy, where Excess or Umbrella policy provides "form follows policy" coverage.

The DP's Commercial General Liability insurance for the Product-Completed Operations and Blanket Contractual Liability obligations shall be kept in effect for not less than six (6) years after Substantial Completion of the Project.

The DP shall endorse its Commercial General Liability (including Products/Completed Operations coverage) and Umbrella/Excess Liability policies to add the MPHA as an additional insured with respect to liability arising out of (a) operations performed for the MPHA by or for the DP, (b) the DP's completed work under this Contract, (c) claims for bodily injury or death brought against any of the additional insureds by the DP's employees, or the employees of its subcontractors of any tier, however caused, related to the performance of the work under this Contract. Such insurance afforded to the MPHA as additional insured under the DP's policies shall be primary insurance and not excess over, or contributing with, any insurance purchased or maintained by the MPHA or others required to be included as additional insureds. The additional insured status must be reflected on the DP's Certificate of Insurance to the MPHA.

The DP will further provide Certificates of Insurance with additional insured status per the above requirements on an annual basis, naming the MPHA as additional insured per the above requirements.

Certificates of Insurance and policy endorsements indicating additional insured status shall be filed with the MPHA prior to commencing any work hereunder. The MPHA shall not be obligated to review certificates or other evidence of insurance, or to advise the DP of any deficiencies in such documents, and receipt thereof shall not relieve the DP from, nor be deemed a waiver of the MPHA's right to enforce, the terms of the DP's obligations under this Contract. All insurance policies shall contain a provision that coverages and limits afforded thereunder shall not be canceled without thirty (30) days prior written notice to the MPHA. The MPHA shall have the right to examine any policy or endorsements required under this Contract.

All insurance policies required to be obtained by the DP and its subcontractors hereunder shall include a waiver of subrogation by endorsement or otherwise in favor of the MPHA and its agents, employees, officers, directors, lenders, and architect. The waivers of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurance interest.

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Failure to maintain the above-referenced insurance coverage, including naming the MPHA as an additional insured (where appropriate) during the term(s) of this Contract shall constitute a material breach thereof. Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the Agency:

**Minneapolis Public Housing Authority
Attention: Molly Prahm, Buyer
1001 N. Washington Avenue, Minneapolis, MN 55401**

2.4 Licensing. The DP shall also provide to the MPHA a copy of any required licenses. Failure to maintain these licenses in a current status during the term(s) of this Contract shall constitute a material breach thereof.

2.5 Financial Viability and Regulatory Compliance.

2.5.1 The DP warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this Contract. The DP further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

2.5.2 The DP agrees to promptly disclose to the MPHA any IRS liens or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this Contract. The failure by the DP to disclose such issue to the MPHA in writing within 5 days of such notification received will constitute a material breach of this Contract.

2.5.3 The DP further agrees to promptly disclose to the MPHA any change of more than 50% of its ownership and/or any declaration of bankruptcy that the DP may undergo during the term(s) of this Contract. The failure of the DP to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this Contract.

2.5.4 All disclosures made pursuant to this section of the Contract shall be made in writing and submitted to MPHA within the time periods required herein.

2.6 State and Federal Data Privacy Statement. The DP may have access to information or data that is classified as "private, confidential, not-public or non-public" under the Minnesota Government Data Practices Act and applicable Federal law. The DP must maintain the confidential nature of any data or information received in the course of providing services. The unauthorized disclosure of "private, confidential, not-public or non-public" data is subject to civil and criminal penalties under the Minnesota Government Data Practices Act and applicable Federal law.

3.0 Modification. This Contract shall not be modified, revised, amended or extended except by written change order or addendum.

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4.0 Severability. The invalidity of any provision of this Contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision.

5.0 Applicable Laws.

5.1 Compliance with Federal and State Laws. All work performed by the DP pursuant to this Contract shall be done in accordance with all applicable Federal, State and local laws, regulations, codes and ordinances.

5.2 Jurisdiction of Law. The laws of the State of Minnesota shall govern the validity, construction and effect of this Contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This Contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Hennepin County, Minnesota is the appropriate forum for any action relating to this Contract. This Contract may be signed in counterparts.

6.0 Notices, Invoices and Reports.

6.1 All notices, reports and/or invoices submitted to the MPHA by the DP shall be in writing and delivered to the attention of the following person representing the MPHA:

**Minneapolis Public Housing Authority
Attention: Laura Dykema
1001 N. Washington Avenue, Minneapolis, MN 55401**

Or, if appropriate, e-mailed to: ldykema@mplspha.org.

6.2 All notices submitted to the DP pursuant to this Contract shall be in writing and mailed to the attention of:

or, if appropriate, shall be e-mailed to: _____

7.0 Additional Considerations.

7.1 Non-Escalation. Unless otherwise specified in the RFP documents, the unit prices reflected in the RFP response shall remain firm with no provision for price increases during the term of the Contract.

7.2 Government Standards. The DP shall ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NIOSH) and environmental control (EPA and Bureau County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The DP shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the DP for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.

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- 7.3 Work on MPHA Property.** If the DP's work under the Contract involves operations by the DP on MPHA premises, the DP shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the MPHA's negligence, shall indemnify the MPHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the DP, its agents, employees, or subcontractors.
- 7.4 Ownership of Documents.** All documents, materials, data and records arising out of this Contract shall be the property of the MPHA. The DP may retain at its own cost reproducible copies of any materials classified as "public" under any relevant government provision. The author may copyright only that work which is classified as "public." However, the Federal Grantor Agency will have the right to the royalty-free, not exclusive and irrevocable license to reproduce, publish, use and authorize others to use the work for government purposes.
- 7.4.1 Property of the MPHA.** Drawings and specifications are the property of the MPHA. The DP shall retain copies for information and reference.
- 7.4.2 MPHA Use.** The MPHA may use drawings and specifications for additions to a project, or completion of the work by others, provided that the DP has been compensated for the work performed. The MPHA may use the drawings and specifications for any other purpose it chooses in the future without the DP's consent or authorization.
- 7.4.3 DP Indemnification.** The MPHA shall indemnify and hold harmless the DP for the re-use of any information delivered to it for other projects outside the scope of the Contract. Prior to any such re-use by the MPHA, the DP's identification, including title blocks, shall be removed, unless otherwise agreed by the parties.
- 7.5 Official, Agent and Employees of the MPHA Not Personally Liable.** In no event shall any official, officer, employee, or agent of the MPHA in any way be personally liable or responsible for any covenant or agreement herein contained, whether either expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 7.6 Subcontractors.** Unless otherwise stated in the RFP documents, the DP may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the Contract without the MPHA's prior written permission.
- 7.7 Salaries and Expenses Relating to DP Employees.** Unless otherwise stated within the RFP documents, the DP shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the Contract. The DP further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.

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- 7.8 Independent Contractor.** The DP is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties and neither shall have any authority to bind the other in any way.
- 7.9 Waiver of Breach.** A waiver of either party of any terms or condition of this Contract shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 7.10 Time of the Essence.** Time is of the essence as to each Contract provision in which time of performance is a factor.
- 7.11 Limitation of Liability.** In no event shall the MPHA be liable to the DP for any indirect, incidental, consequential or exemplary damages.
- 7.12 Indemnification.** To the fullest extent permitted by law, the DP shall defend, indemnify and hold harmless the MPHA and the MPHA's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from, or in any manner connected with, the performance under this Contract, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the DP, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. This indemnification, hold harmless and defense obligation shall survive acceptance of the work under this Contract, completion of the work under this Contract, or termination, with or without cause, of the Contract. The DP further agrees to obtain, maintain and pay for such Commercial General Liability insurance coverage and endorsements as will insure the provisions of this paragraph.

8.0 Appendices.

- 8.1** The following documents are a part of this Contract:
- 8.1.1** *Appendix No. 1. form HUD-5370-C (01/2014), General Conditions for Non-Construction Contracts Section I (With or without Maintenance Work);*
- 8.1.2** *Appendix No. 2. Section 3 Plan;*
- 8.1.3** *Appendix No. 3. Sample Implementing Order;*

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- 8.1.4 Appendix No. 4. Data Privacy Statement;
- 8.1.5 Appendix No 5. Scope of Services; and
- 8.1.6 Appendix No. 6. The fees that apply to each procurement that ensues from this Contract; and
- 8.1.7 **Inclusion by Reference.** Included by reference is any document or clause issued as a part of RFP No. P17008 that the MPHA may choose to include at any time during the performance of this Contract or any options exercised thereto by the MPHA. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the MPHA upon written request for such from the DP.

8.2 Order of Precedence. Please note that, in the case of any discrepancy between this Contract and any of the above noted appendices, the requirement(s) detailed within the body of this Contract shall take first precedence, then the requirement(s) detailed within each appendix. The DP shall notify the MPHA if it discovers a discrepancy in the Contract documents.

9.0 CERTIFICATIONS. The undersigned representative of each party hereby acknowledges by signature below that they have authority to enter into the Contract for their respective entity, have reviewed the foregoing, and understand and agree to abide by their respective obligations as defined herein:

DP NAME

By: _____ Date: _____

Minneapolis Public Housing Authority:

By: _____ Date: _____
Elizabeth K. Grossman, Contracting Officer

By: _____ Date: _____
Lisa R. Griebel, General Counsel
(As to Form and Execution)