

Introduction

This contract between the Minneapolis Public Housing Authority (MPHA) in and for the City of Minneapolis, a body politic and corporate, duly created, organized and existing under the laws of the State of Minnesota, and _____ (Contractor) is entered into this ___ **day of January, 2019.**

Services pursuant to this contract shall begin once the MPHA issues the Contractor a Notice to Proceed. The term “herein” as used throughout this contract refers to this contract form, the appendices, and all listed attachments.

Contract Intent

The purpose of this agreement is to state and define the terms and conditions under which the Contractor shall provide full comprehensive maintenance and repair services for vertical transportation systems identified, and the terms and conditions under which the MPHA shall compensate the Contractor for such services rendered.

It is the intent of this contract to ensure all requirements, procedures, tests, inspections, service practices, component repairs, equipment renewals, system adjustments, filing procedures and recording documentation as referenced, mandated or otherwise implied herein are all inclusive, and to guarantee the MPHA the absence of a particular item of work, service or procedure shall not alleviate the Contractor of the sole responsibility to provide such labor, expertise, materials, equipment, services or other procedures applicable to the agreement and practical requirements unless same is specifically excluded, prorated or deleted herein.

Minimum standards and requirements for services to be rendered shall be performed in accordance with the specifications and relative time periods. Where there is no specific requirement for a preventive maintenance procedure, the original equipment manufacturer (O.E.M.) standard shall be employed unless there is no relative documentation available. The absence of both a contract requirement herein and the O.E.M. design standard shall cause the Contractor to engage the services of a qualified engineer to formulate the relative standards and incorporate same as an addendum to this agreement with the Professionals' Seal and Stamp.

Definitions of Terms

- A. The term “MPHA”, as used herein, refers to Minneapolis Public Housing Authority.
- B. The term “Owner/Agent”, “Owner’s Agency”, “Owner’s Designee” or “Project Manager” or references of similar import, as used herein, refers to Melissa Libson, 1001 Washington Avenue North, Minneapolis, MN 55401.
- C. The term “Consultant”, as used herein, refers to VDA (Van Deusen & Associates, Inc.), 5775 Wayzata Blvd., Suite 700, St. Louis Park, MN 55416.
- D. The term “Contract” or “Contract Documents”, as used herein, consists of the Agreement, Bidding Information, Conditions of Contract, Specifications and includes any Alternates or Addenda issued during the bidding period.
- E. The term “Elevator Contractor”, “Contractor” or “Vendor”, as used herein, refers to _____.
- F. The term “Subcontractor”, as used herein, refers to any persons, partners, firm, or corporation having materials and/or labor for the execution of the work herein described.

Abbreviations and Symbols

Abbreviations for associations, institutions, societies, reference documents and/or governing agencies, which may appear in the contract document, shall mean the following:

AIA	American Institute of Architects
ANSI	American National Standards Institute
ASME	American Society of Mechanical Engineers
BOCA	Building Officials and Code Administrators International, Inc. (Basic National Building Code)
A.H.J.	Authority Having Jurisdiction
G.A.	Governing Agency
NEC	National Electrical Code
OSHA	Occupational Safety and Health Administration

1.0 Agreement Coverage-Interim and Guarantee Periods

- 1.1 The entire vertical transportation system(s) shall be maintained as hereinafter described, in accordance with the following detailed terms. Trained employees of the Contractor will use all reasonable care to keep the systems in proper adjustment and in safe operating condition, in accordance with all applicable codes, ordinances, and regulations. The requirements are specified in the singular with the understanding that all provisions shall be applicable to all units indicated unless otherwise specified.
- 1.2 The specifications are written in the singular with the understanding that identical work, materials, and equipment shall be provided for all vertical transportation units identified unless otherwise specified.
- 1.3 Interim Maintenance coverage will be furnished from the award of the modernization project until final acceptance of the last unit (on a per building basis).
- 1.4 Guarantee Maintenance shall commence immediately after acceptance of the last unit (on a per building basis) and continue for a period of twelve (12) months.
- 1.5 With the exception of only those items specifically identified as being performed by others, the contract specifications are intended to include all engineering, material, labor, testing, and inspections needed to achieve work specified by the contract. Inasmuch as it is understood that any incidental work necessary to execute the agreement is also covered by the contract specifications, the Contractor is cautioned to familiarize himself with the existing equipment and job site conditions. Additional charges for material or labor shall not be permitted subsequent to execution of the Contractual Agreement for work, services or procedures covered herein.
- 1.6 Maintenance coverage shall include, but is not limited to, preventive services, emergency callback services, inspection and testing services, repair, and/or direct replacement component renewal procedures.
- 1.7 Maintenance coverage during the Interim period when any elevator is removed from service to be modernized, on a per-building basis, shall be all inclusive of any callbacks, parts and repair work required to maintain operational elevators at all times. During this period there will be no additional costs for labor and materials required to maintain this level of service twenty-four (24) hours a day/seven (7) days per week for the duration of the limited availability.

2.0 Services and Payment.

- 2.1 **Scope of Services.** The services provided under this contract generally consist of the MPHA's need for elevator modernization and elevator maintenance as described herein and specifically within Contract

Appendix 10, Technical Specifications. The MPHA shall retain the right to implement and/or enforce any item issued as a part of IFB No. B18019.

2.2 Provisions of any and all Work (Work Orders). Contractor shall not begin any work without the receipt of a completed contract and a Notice to Proceed from the authorized MPHA representative.

2.3 Cost/Value of Services.

2.3.1 Contract Value. In consideration for Contractor's performance under this contract, MPHA agrees to pay Contractor a firm-fixed price of:

\$____.____

2.4 Billing Method.

2.4.1 To receive payment for services rendered under this contract, Contractor 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**

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

2.4.2.1 Unique invoice number;

2.4.2.2 Contractor's name, address, and telephone number;

2.4.2.3 Date of invoice and/or billing period;

2.4.2.4 Applicable contract number;

2.4.2.5 Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site;

2.4.2.6 Asset Management Project (AMP) or address where the work was performed;

2.4.2.7 Total dollar amount being billed;

2.4.2.8 A statement certifying all wage reporting requirements for the work included in the billing period are satisfied;

2.4.2.9 All supporting documentation for services being billed including, but not limited to subcontractor invoices, material receipts, time logs, etc.; and

2.4.2.10 The Minneapolis Public Housing Authority Contractor Sales Tax Documentation form shall be completed and included with every invoice including subcontractor invoices. State and local taxes shall be separated and properly documented with material receipts.

2.4.3 The MPHA shall withhold a 5% retainage from each progress payment consistent with applicable laws and regulations. Notwithstanding any other provision to the contrary, the MPHA may make full payment for equipment and materials delivered to the job site or

stored offsite if the equipment and materials are suitably stored, the equipment and materials are protected by suitable insurance, and upon payment, the MPHA receives the equipment and materials free and clear of all liens and encumbrances. The MPHA may release the retainage when the project is substantially completed to the satisfaction of the MPHA. The MPHA may reduce or eliminate the retainage if work is progressing satisfactorily. Subcontractors, if any, may request retainage on their final progress payment if their work is complete.

- 2.4.4** Contractor shall submit one progress payment each month that shall include all subcontractors' work completed and approved by the MPHA. A progress payment shall not be an acceptance or approval of any work, or the waiver of any defect or violation of the contract.
- 2.4.5** The MPHA will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until Contractor complies with the applicable provisions of this contract.
- 2.4.6** Contractor shall deliver to the MPHA an invoice each month for services performed the previous month.

3.0 Hours of Work

- 3.1** All scheduled service or repair work other than the period identified in Section 1.7 shall be performed with no overtime charges between 8:00 a.m. to 4:30 p.m., Monday through Friday, except union designated holidays.
- 3.2** Scheduled repairs during the Guarantee period and/or other major adjustment procedures necessitating removal of an elevator for an extended period of time must be scheduled through the MPHA or MPHA Designee.
- 3.3** Emergency callback services shall be provided 24 hours per day, 7 days per week including weekends and holidays as further specified herein.

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

- 4.1 Supervision and Oversight.** Contractor shall be solely responsible for providing supervision and oversight to all of Contractor's personnel assigned to the MPHA properties under this contract.
- 4.2 Qualified Personnel.** The maintenance work shall be performed only by Qualified Technicians and Mechanics directly employed and supervised by the Contractor, who are experienced and skilled in maintaining vertical transportation units similar to those to be maintained under this contract and shall not be assigned or transferred to any agent or subcontractor without the express written consent of the MPHA or MPHA Designee.
- 4.3 Materials.** All materials and parts are to be new and of the best quality of the kind specified. Installation of such materials shall be accomplished in a neat workmanlike manner. In case the Contractor should receive written notification from the MPHA stating the presence of inferior, improper, or unsound materials or workmanship, the Contractor shall, within twenty-four (24) hours proceed to remove such work or materials and make good all other work or materials damaged thereby. If the MPHA permits said work or materials to remain, the MPHA shall be allowed the difference in value or shall, at its election, have the right to have said work or materials repaired or replaced as well as the damage caused thereby, at the Contractor's expense, at any time during the contract term; and neither payments made to the Contractor, nor any other acts of the MPHA shall be construed as evidence of acceptance and waiver.

4.4 Payment for Emergency Callback Services (Guarantee Period only) shall be:

4.4.1 Included in the monthly lump sum price for procedures performed during regular working hours of regular working days of the elevator trade. If overtime services are requested for work covered by this agreement, the MPHA shall pay for the bonus (overtime) portion of such hours applicable only. Base labor hours shall be included in the monthly maintenance price with extra charges limited to the premium labor portion of work approved by the MPHA's Designee.

4.4.2 Any billable labor per this agreement during the Interim period shall be at the rates in Contract Appendix 11.

4.5 Payment Adjustment During Interim Maintenance. Interim monthly invoicing shall be adjusted during the period detailed in Section 1.7 to reflect units being removed from service for modernization.

4.6 Scheduled Preventative Maintenance Labor. Contractor shall provide scheduled systematic examinations, adjustments, cleaning and lubrication of all machinery, machinery spaces, hoistways and pits. The Contractor shall include a minimum of four (4) hours per month per unit that is to be dedicated to routine preventive maintenance.

4.7 Cleaning. The Contractor shall, during the course of all examinations, remove and discard immediately all accumulated dirt and debris from the machine rooms, car tops and pit areas. Prior to the anniversary date of this Agreement, Contractor shall thoroughly clean down the entire hoistway of all accumulated dirt, grease, dust, and debris.

4.8 Inspections/Tests.

4.8.1 The Contractor shall conduct Safety, Efficiency and Maintained Conditions surveys, inspections and tests as follows:

4.8.1.1 Semi-Annual quality control evaluations by a qualified supervisor to ensure and confirm the services and procedures as specified herein are properly executed relative to maintenance and performance standards for the systems serviced.

4.8.1.2 Mandated inspections and testing in accordance with ASME A17.1 Standards applicable per local law; filing of all procedures and payment of all relative fees per the Authority Having Jurisdiction (A.H.J.) and preparation of reports within the required time periods for the examination(s) rendered.

4.8.1.2.1 The MPHA retains the right to engage the services of a third-party qualified and certified agency for the sole purpose of witnessing mandated inspections and tests performed by the Contractor. Should the MPHA elect to utilize this provision, the Contractor shall conform to the third-party agency schedule and provide qualified labor at no additional charge to the MPHA.

4.8.1.3 If applicable, independent testing of Fire Emergency Operating Systems and/or Emergency Power System tests in accordance with local law requirements and ASME standards.

4.8.1.3.1 The MPHA retains the right to have these tests performed on a not-to-interfere basis at any hour of the day and any day of

the week; and the cost for overtime work shall be limited to the premium labor portion for work performed on an overtime basis.

4.8.1.3.2 Failure to perform any code required testing during the month identified for the annual testing will result in a reduction of payment for that month and each subsequent partial or complete month, until the testing is performed, by 50%.

4.8.2 The Contractor shall annually conduct testing of the hoistway ventilation systems in all applicable buildings. The Contractor shall:

4.8.2.1 Verify operation of all lobby key switches and indicators.

4.8.2.2 Verify dampers fully open and close.

4.8.2.3 Notify MPHA of any system deficiencies and assist MPHA with any request to run the elevator to access equipment inside the hoistway.

4.8.2.4 Time requested to assist the MPHA shall be billed as an extra to the contract and billed at the Contractor's hourly billing rates established by this agreement.

4.9 Emergency Callback Service (24 Hours, 7 Days Per Week)

4.9.1 Provide emergency callback service which consists of promptly dispatching qualified employees in response to requests from the MPHA or MPHA representative, by telephone or otherwise, for emergency adjustment or minor repairs on any day of the week, at any hour, day, or night. If repairs cannot be made immediately, the mechanic shall notify the MPHA's Representative as to the reason why and provide supplemental information regarding the restoration of services.

4.9.1.1 Callback service in response to passenger entrapments shall be provided within one-half (½) hour during regular working hours (8:00 a.m. – 4:30 p.m.) and within one (1) hour during overtime periods.

4.9.1.2 Callback services for out-of-service units that have been secured by the Owner's Representative or are non-functional shall be provided within one (1) hour during regular working hours and within two (2) hours at any other times.

4.9.1.3 Callback services for non-essential system malfunctions that do not constitute an operational or other safety condition shall be provided during normal working hours of regular working days within four (4) hours of the request for service.

4.10 Repairs, Renewals, and Replacements

4.10.1 Repairs, renewals, and replacements shall be made by the Contractor as soon as scheduled or other examinations reveal the necessity of the same, or when the MPHA so advises the Contractor under the terms of this Agreement. It is understood and agreed that repairs, renewals, and replacements shall be made in accordance with high standards of preventive maintenance practice and that the repair and renewals of parts made shall be equal in design, workmanship, quality, finish fit, adjustment, operation and appearance to the original installation and that replacements shall be new and genuine parts equal to those parts supplied by the manufacturer of the original equipment or its successor, and shall apply to

the repair, renewal, or replacement of all mechanical, electronic, and electrical parts, including but not limited to the following:

- 4.10.1.1** Automatic door systems, power operated door systems and door systems complete.
 - 4.10.1.1.1** Power operator and engagement linkages
 - 4.10.1.1.2** Car door top track and hanger roller assemblies
 - 4.10.1.1.3** Car door track liners, eccentrics, stops, bumpers and related operating mechanisms for multiple speed or multiple panel doors.
 - 4.10.1.1.4** Car gates, bottom guides, retainers, fire stops, gibs, entrance sills and protection guards.
 - 4.10.1.1.5** Electrical safety switches and activation mechanisms, door protective and/or retracting devices, and power door operators.
 - 4.10.1.1.6** Electromechanical safety interlock assemblies, related operating mechanisms, clutch or other master system engaging devices, linkages, zoned locking devices, and self-closing devices.
- 4.10.1.2** Car frame, platform, and car safety devices complete.
 - 4.10.1.2.1** Crosshead, stiles, hitch plates, tie rods, supports and related structures.
 - 4.10.1.2.2** Car guides, shoes, stands, spindles, gibs, rollers and tensioning devices.
 - 4.10.1.2.3** Sub-platform, under car platform fireproofing, car sills with support cradles, top exit access operating/safety hardware and electrical switches.
 - 4.10.1.2.4** Car fans, blowers, and cab ventilation systems.
- 4.10.1.3** Controls, selectors, power drives, encoding devices with related wiring, conduit, and circuitry complete.
 - 4.10.1.3.1** Relays, contactors, switches, capacitors, resistors, fuses, circuit breakers, overloads, power supplies, regulators, tach generators, arc shields, shunts, holders, and hardware.
 - 4.10.1.3.2** Circuit boards, transmitters, encoders, transformers, rectifiers, transistors, solid state switching devices, insulators, timing devices, suppressors, and computer apparatus.
 - 4.10.1.3.3** Filters, fans, blowers, wiring, studs, terminal blocks, plug connectors, CRTs or other diagnostic devices, keyboards, and printers.

- 4.10.1.3.4 Cabinets, isolation transformers, chokes, diagnostic tools, status indicators, solid state, and hard wire circuitry.
- 4.10.1.4 Hoistway and pit equipment.
 - 4.10.1.4.1 Guide rails, fishplates, brackets, inserts and related hardware to include jack bolts or other special mechanisms for mounting and alignment.
 - 4.10.1.4.2 Wire ropes, chains and cables used for suspension with related hitch and connection hardware complete.
 - 4.10.1.4.3 Corridor entrance top track and hanger rollers, toe guards, fascias, dust covers, sills, stops, bumpers, eccentrics, retainers, and bottom guides.
 - 4.10.1.4.4 Electrical wiring and conduit, electrical traveling cables, electrical limits, slow-downs, activating cams, switches, vanes, inductors, tapes, readers, leveling and encoding systems complete with all related hardware and wiring.
 - 4.10.1.4.5 Frames, guides, switches, rollers, cams, guards, “S” hooks, guidance systems and all related hardware.
 - 4.10.1.4.6 Car rollers, stands, strike plates, and hitch devices.
 - 4.10.1.4.7 Car buffers, stands, strikes, blocking, extension devices, mounting hardware and appurtenances.
 - 4.10.1.4.8 Pit safety switches, access ladders, light switches, lighting assemblies, bulbs, and guards.
- 4.10.1.5 Operating and signal fixtures with electrical wiring.
 - 4.10.1.5.1 Car operating panels, pushbuttons, stop switches, audible signals, keyed or other control switches, visual signals, jewels, and indicators with electrical wiring.
 - 4.10.1.5.2 Car position indicators, riding lanterns, signal annunciators, visual and audible signals complete.
 - 4.10.1.5.3 Corridor pushbutton stations, hall lanterns, hall position indicators, keyed switches, access controls, electrical wiring and traveling cables complete.
 - 4.10.1.5.4 Emergency lighting systems, emergency communication devices, and signal systems complete.
 - 4.10.1.5.5 Corridor and lobby fixtures with remote controls and operational monitoring devices, starter panels, emergency power selectors, and location indicators.

4.10.1.5.6 The following items of equipment are excluded: Mainline power switches and fuses, car enclosure, car doors, hoistway enclosures, hoistway doors and door frames.

4.11 Scheduled Service Procedures

4.11.1 Maintenance requirements, in addition to scheduled and emergency repairs, renewals and testing, shall include but are not limited to:

4.11.1.1 Examination, repair, and replacement of all electrical wiring, traveling cables, conduits, connections, and related apparatus extending from the mainline power supply switch in the machine or other power supplies in hoistways.

4.11.1.2 Maintenance of pit, hoistway, and machine room lighting to include relamping, wiring and switch controls.

4.11.1.3 Mandated inspections and relative labor requirements for third party examinations and/or test procedures as approved by the purchaser.

4.12 Performance Times, Leveling and Contract Speed.

4.12.1 The control system shall be maintained to provide smooth acceleration and retardation. Contractor must maintain elevators in accordance with the original equipment manufacturer (O.E.M.) design performance specifications (including floor-to-floor times, door timing, rated speed, group supervisory system, etc.). The door close pressure must never exceed 30 pounds. The following performance schedule shall be adhered to:

4.12.1.1 Contract Speed: The contract speed shall be provided for up direction travel with full-capacity load in the elevator car. The speed in either direction under any loading condition shall not vary more than 5% of the contract speed.

4.12.1.2 In accordance with the ASME A17.1 Code, the elevators shall be maintained and adjusted to safely lower, stop and hold the car with a load of 125% of the rated capacity.

4.12.1.3 Leveling Accuracy: The elevator shall be adjusted to provide accurate leveling within 1/4" ± of the floor level without releveling regardless of load.

4.12.1.4 Door Operating Times:

4.12.1.4.1 Opening Time – as per modernization Specifications.

4.12.1.4.2 Closing Time – as per modernization specifications.

4.12.1.5 Non-interference Door Dwell Times – 1.0 seconds to 2.5 seconds. Door Open Duration After Protective Shield is Reestablished is defined as the length of time the car doors remain open after an object has passed through the protective shield until the car doors begin to close. This time is measured in seconds from the stop in the motion of the car doors until the restart of the closing motion of the car doors.

- 4.12.1.6** Performance Time – as per modernization specifications. Performance Time is defined as the time required for the movement of a car between two (2) floors, including the door closing and effective door opening for passenger transfer. The time is measured in seconds from the start of door closing at one floor until the car is stopped (within stopping accuracy) at the next floor with the doors opened, 2/3 of the opening, for passenger transfer.
- 4.12.1.7** Car Call Dwell Time – 3.0 seconds to 5.0 seconds. Door Open Duration for a Car Call is defined as the length of time the car doors remain fully open in response to a car call without anyone passing through the protective shield. This time is measured in seconds from the stop in the open motion of the car doors until the start of the closing motion of the car doors.
- 4.12.1.8** Hall Call Dwell Time – 5.0 seconds to 8.0 seconds. Door Open Duration for a Hall Call is defined as the length of time the car doors remain fully open in response to a lobby call without anyone passing through the protective shield. This time is measured in seconds from the stop in the open motion of the car doors until the start of the closing motion of the car doors.

4.13 Parts and Inventory and Wiring Diagrams.

- 4.13.1** The Contractor shall maintain an inventory of spare parts at the site of the work for scheduled preventive maintenance procedures and common emergency callback service repairs. Such parts shall include but are not limited to contacts, coils, solid-state boards, relays, resistors, timing devices, computer devices, interlock safety switch and linkage parts, bottom guides, door closers, fuses, bulbs, car guides and an assortment of hardware.
- 4.13.2** The Contractor shall maintain and continually update wiring diagrams and control schematics to ensure “as built” documents remain on site and the property of the MPHA per the maintenance agreement.

4.14 Protection of Work and Property. The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect the MPHA’s property from injury or loss arising out of this contract. The Contractor shall make good any such damages, injury, or loss, except such as may be directly caused by agents or employees of the MPHA. The Contractor shall provide all barricades required to protect open hoistways or shafts per OSHA regulations. Such protection shall include any necessary guards or other barricades for employee protections during and after the maintenance procedure.

4.15 Subsequent Equipment Modernizations/Alterations/Upgradings

- 4.15.1** Full comprehensive service and repair coverage shall be included under the terms of this agreement when equipment and/or component systems represented herein are modified or upgraded.
- 4.15.2** Such changes in equipment necessitating continuing full maintenance coverage may be initiated by the MPHA under a separate voluntary extra cost upgrading agreement with or without the Contractor’s permission or direct authorization and involvement before the work is performed.
- 4.15.3** All non-elective changes or modifications necessitated due to obsolescence, parts unavailability, or the Contractor’s inability to maintain these systems in accordance with the contract specifications shall be fully covered under this agreement regardless of application, method or cost assignment for the life of the contract.

4.15.4 Modernized or otherwise upgraded systems and parts thereof shall automatically be included under the terms of this full comprehensive agreement whether such components are specifically identified or not without extra cost to the MPHA.

4.16 Notice by Authority or Company to Repair or Replace. The Contractor shall comply with all written recommendations of the governing authority or independent inspectors, consultants and insurance carriers employed by the Owner. However, Contractor is not required under this Contract to install new attachments or parts other and different from those now constituting the equipment, as recommended, or directed by insurance companies, Government Authorities, or otherwise.

4.17 Recordkeeping. A complete permanent record of inspections, maintenance, lubrication, and callback service shall be kept in the machine room or other designated location at the site of work. These records are to be available to MPHA’s Designee at all times. The records shall indicate the reason the mechanic was in the building, arrival and departure time, the work performed, etc., and these records will be property of the MPHA. Record keeping requirements shall include Contractor assigned maintenance personnel and scheduled preventive maintenance procedures, inspections, tests and third party assisted examinations.

4.18 Record Drawings. Contractor shall provide and maintain two complete sets of updated electrical wiring diagrams and control schematic drawings on file with the building and they are to become the property of the MPHA for each group and/or individual system.

4.19 Reports by Contractor. The Contractor shall, at any time during the term of this Contract, upon written request of the MPHA, render a report of inspections, repairs or replacements made by the Contractor at the premises herein, itemized as to parts installed or services performed, and supply samples of lubricants, compounds, or other materials employed. Contractor shall prepare, and issue all required forms and/or reports relative to examinations, tests, and inspections as specified herein.

4.20 Insurance Requirements. Contractor shall purchase and maintain insurance as required to protect Contractor and the MPHA from claims set forth in items 4.20.1 through 4.20.3 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 Contractor, its agents or employees, of materials, equipment, instrumentalities or other property, whether the same be owned by the MPHA, Contractor, subcontractors or third parties. The insurance required hereunder shall be effective and apply whether such claims arise by Contractor or by anyone directly or indirectly employed by Contractor or by anyone for whose acts Contractor may be liable.

Contractor shall require its subcontractors, if any, to comply with all insurance requirements in this contract. Contractor 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 coverages and minimum limits of liability are as follows:

4.20.1 Worker's Compensation Insurance/Employer's Liability. Claims under Contractor'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 \$1,000,000 each accident, \$1,000,000 Disease-Policy Limit, \$1,000,000 Disease Each employee.

TYPE OF COVERAGE

LIMITS OF LIABILITY

- WORKER’S COMPENSATION

STATUTORY

- EMPLOYER’S LIABILITY
 - Bodily Injury by Accident:
\$1,000,000 each accident.
 - Bodily Injury by Disease:
\$1,000,000 each employee.
 - Bodily Injury by Disease:
\$1,000,000 policy limit.

4.20.2 Commercial General Liability Insurance on an Occurrence Basis including:

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 Contractor, or (2) any other person; claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom. Insurance coverages shall include:

- Premises – Operations
- “Per Project” Endorsement
- Blanket Contractual Liability
- Broad Form Property Damage
- Blanket Contractual Liability including contractual liability assumed by this Contract.
- Personal Injury
- Operations of Independent Contractors

TYPE OF COVERAGE

LIMITS OF LIABILITY

- COMPREHENSIVE GENERAL LIABILITY
 - \$5,000,000 Including:
Bodily Injury, Property Damage,
Personal Injury and contractual
liability.

Commercial General Liability insurance required under this paragraph shall be written on an occurrence form. Coverage to follow form of underlying policies.

4.20.3 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.

TYPE OF COVERAGE

LIMITS OF LIABILITY

- COMPREHENSIVE AUTOMOBILE LIABILITY
 - BODILY INJURY
 - \$1,000,000 EACH PERSON
 - \$1,000,000 EACH OCCURRENCE
 - PROPERTY DAMAGE
 - \$1,000,000 EACH OCCURRENCE

The foregoing insurance policies shall be primary to any other insurance which may be carried by Contractor and shall name the MPHA and Van Deusen & Associates, Inc. as additional insureds with a specific policy endorsement as follows:

Minneapolis Public Housing Authority
Van Deusen & Associates, Inc.

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 Contractor. The MPHA does not in any way represent that the insurance or limits of insurance specified above are sufficient or adequate to protect Contractor's interests or liabilities but are minimums. Employer's Liability, Commercial General Liability and Automobile Liability 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.

Contractor shall endorse its Automobile Liability, Commercial General Liability and Umbrella/Excess Liability policies to add the Minneapolis Public Housing Authority and Van Deusen & Associates, Inc. as additional insureds with respect to liability arising out of (a) operations performed for the MPHA by or for Contractor, (b) Contractor's completed work under this contract, (c) claims for bodily injury or death brought against any of the additional insureds by Contractor'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 Contractor'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 Contractor's Certificate of Insurance to the MPHA.

Contractor 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 Contractor of any deficiencies in such documents, and receipt thereof shall not relieve Contractor from, nor be deemed a waiver of the MPHA's right to enforce, the terms of Contractor'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 Contractor 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, and lenders. 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.

Failure to maintain the above-referenced insurance coverage, including naming the MPHA and Van Deusen & Associates, Inc. as additional insureds (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

4.21 Licensing. Contractor 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.

4.22 Payment/Terms. All replacement parts, repairs, adjustments, and associated services, as specified herein, shall be supplied, installed, performed, and conducted at the Contractor's sole cost and expense unless otherwise specified herein.

4.22.1 The MPHA agrees to pay the Contractor on a monthly basis the fees established.

4.22.1.1 Monthly invoices shall indicate the base monthly portions of the contract amount due under the agreement for maintenance services.

4.22.1.2 Any state or local tax charges which may be applicable are not included in the monthly fee indicated and shall be itemized on the monthly billing invoice statement accordingly.

4.22.1.3 Extraordinary work and/or other work, as approved by the MPHA, shall be invoiced separately upon completion and acceptance of the work or other services performed.

4.22.1.4 When any unit is removed from service to be modernized during the Interim period, the monthly rates shall be adjusted for that building to reflect only the units remaining in service. These units once modernized and returned to service while another unit is removed for modernization shall revert back to the Interim Maintenance rate until the start of the Guarantee period begins.

4.23 Non-Payment

4.23.1 The MPHA may have the Contractor's work and systems' performance operations checked monthly to ensure the Contractor is performing in accordance with this contract. If the work requirements are not maintained, the MPHA will retain the monthly payment to the Contractor until the Consultant verifies that the work and/or operating performance is back to standard.

4.23.2 The Consultant, MPHA and/or MPHA's Designee may withhold approval for payment on any request to such extent as may be necessary to protect the MPHA from loss on account of:

4.23.2.1 Negligence on the part of the Contractor to execute the work properly or failure to perform any provisions of the contract. The MPHA, after three (3) days written notice to the Contractor, may, without prejudice to any other remedy, make good such deficiencies and may deduct the cost of the contract.

4.23.2.2 Claims filed or reasonable evidence indicating probable filing of claims due to the Contractor's failure to perform.

4.23.2.3 Failure of Contractor to make payments properly to subcontractors for material and labor used to fulfill contractual requirements.

4.23.2.4 Damage to the building as a result of work performed or another subcontractor's failure to perform.

4.24 Errors and Omissions.

4.24.1 Contractor shall notify the MPHA and Consultant in writing regarding any necessary services, coverage or items which may have been omitted from the maintenance contract

specifications and any irregularities, discrepancies or duplications that could affect the full comprehensive intent of the agreement.

4.24.1.1 Any duplication of work or coverage is specified as a means of demonstrating the contract requirements, but such duplication if any, is not intended to expand coverage or increase requirements for such work or services and such duplication shall not increase costs or provide justification for extra or additional charge to the MPHA.

4.25 Financial Viability and Regulatory Compliance.

4.25.1 Contractor 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. Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

4.25.2 Contractor 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 Contractor to disclose such issue to the MPHA in writing within 5 days of such notification received will constitute a material breach of this contract.

4.25.3 Contractor further agrees to promptly disclose to the MPHA any change of more than 50% of its ownership and/or any declaration of bankruptcy that Contractor may undergo during the term(s) of this contract. The failure of Contractor 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.

4.25.4 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.

4.26 State and Federal Data Privacy Statement. Contractor 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. Contractor shall maintain the confidential nature of any data or information received in the course of providing services and shall not otherwise breach the security of the data as defined by the Minnesota Government Data Practices Act. 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.

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

6.0 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.

7.0 Applicable Laws.

7.1 Compliance with Federal and State Laws. All work performed by Contractor pursuant to this contract shall be done in accordance with all applicable Federal, State and local laws, regulations, codes and ordinances.

7.2 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.

8.0 Notices, Invoices and Reports.

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

**Minneapolis Public Housing Authority
Attention: Melissa Libson
1001 N. Washington Avenue, Minneapolis, MN 55401**

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

8.2 All notices submitted to Contractor pursuant to this contract shall be in writing and mailed to the attention of:

Attention: _____

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

9.0 2 CFR 200.318, Procurement. Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the MPHA and Contractor each agree:

9.1 Remedies for Contractor Breach. Pertaining to contract-related issues, it is the responsibility of both the MPHA and the Contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the MPHA or the Contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action. The other party shall, within 10 days, respond in writing to the other party (however, the MPHA shall retain the right to, if conditions warrant, require the Contractor to respond in a shorter period of time). Further, the MPHA shall employ the following steps in dealing with the Contractor as to any performance issues:

9.1.1 If the Contractor is in material breach of the contract, the MPHA may promptly invoke the termination clause detailed within Clauses No. 32 and No. 34 of Contract Appendix No. 1, form HUD-5370 (1/2014), *General Conditions for Construction Contracts, Public Housing Programs* and terminate the contract for cause. Such termination must be delivered to the Contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

9.1.2 Prior to termination, the MPHA may choose to warn the Contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the Contractor on probation, thereby giving the Contractor a certain period of time to correct the deficiencies or potentially suffer termination. The MPHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the Contractor does not agree with such action, the Contractor shall have 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the MPHA's position. The written protest must detail all pertinent information, including justification detailing the MPHA's alleged incorrect action(s).

9.1.3 After termination, if the Contractor does not agree with the MPHA's justification for the termination, the Contractor shall have 10 days to dispute, in writing, such action; if he/she does

not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the MPHA's position. The written protest must detail all pertinent information, including justification detailing the MPHA's alleged incorrect action(s).

- 9.1.4** The response to any protest received shall be conducted in accordance with MPHA's Procurement Policy and Procedures.
- 9.2** **Termination for Cause and Convenience.** As detailed within Clauses No. 32 and No. 34 of Contract Appendix No. 1, form HUD-5370 (1/2014), *General Conditions for Construction Contracts, Public Housing Programs*.
- 9.3** **Executive Order 11246.** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 9.4** **Copeland "Anti-Kickback" Act.** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 9.5** **Davis-Bacon Act.** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 9.6** **Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 9.7** **Reporting.** Both parties shall comply with any reporting requirements that may be detailed herein.
- 9.8** **Patent Rights.** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 9.9** **Access to Records.** Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor MPHA, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 9.10** **Record Retention.** Both parties hereby guarantee retention of all required records for six years after grantees or subgrantees make final payments and all other pending matters are closed.
- 9.11** **Clean Air Act.** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection MPHA regulations (40 CFR Part 15).
- 9.12** **Energy Policy and Conservation Act.** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

10.0 Additional Considerations.

- 10.1 Non-Escalation.** Unless otherwise specified in the IFB documents, the unit prices reflected in the contract shall remain firm with no provision for price increases during the term of the contract.
- 10.2 Funding Restrictions and Order Quantities.** The MPHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the MPHA, if:
- 10.2.1** Funding is not available;
- 10.2.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or
- 10.2.3** The MPHA's requirements in good faith change after award of the contract.
- 10.3 Local, State, and/or Federal Permits.** Unless otherwise stated in the IFB documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this IFB, whether or not they are known to either the MPHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of Contractor and any costs that were submitted by Contractor in response to the IFB shall reflect all costs required by Contractor to procure and provide such necessary permits.
- 10.4 Government Standards.** Contractor shall ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NOSHA) and environmental control (EPA and Bureau County Pollution Regulations) and any other ordinance, code, law or regulation. Contractor shall be responsible for all costs incurred for compliance with any such ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations.
- 10.5 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.
- 10.6 Subcontractors.** Unless otherwise stated within the IFB documents, Contractor may not use any subcontractors to accomplish any portion of the services described within the IFB documents or the contract without the MPHA's prior written permission.
- 10.7 Prompt Payment to Subcontractors.** Pursuant to Minn. Stat. § 471.425, subd. 4a, Contractor, as prime contractor, shall pay any subcontractor within ten (10) days of Contractor's receipt of payment from MPHA for undisputed services provided by the subcontractor. Contractor is required to pay interest at 1.5% per month or any part of a month to any subcontractor on any undisputed amount not paid on time to the subcontractor. Contractor shall be responsible for any and all costs associated with subcontractor suspension of work due to failure to promptly pay pursuant to state law.
- For an unpaid balance of less than \$100.00, Contractor shall pay the actual penalty due to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. If subcontractor prevails in a civil action to collect interest penalties from Contractor, Contractor shall pay the subcontractor's reasonable costs and disbursements, including attorney's fees.
- 10.8 Salaries and Expenses Relating to Contractor's Employees.** Unless otherwise stated within the IFB documents, Contractor 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. Contractor 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.

- 10.9 Independent Contractor.** Unless otherwise stated within the IFB documents or the contract, Contractor 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.
- 10.10 Assignments.** Neither party to the contract shall assign the contract or sublet it as a whole without the written consent of the other, nor shall Contractor assign any payment due it or to become due to it hereunder without the previous written consent of the MPHA.
- 10.11 Waiver of Breach.** A waiver of either party of any terms or condition of this agreement 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.
- 10.12 Time of the Essence.** Time is of the essence as to each contract provision in which time of performance is a factor.
- 10.13 Limitation of Liability.** It is expressly understood and agreed by the parties that the MPHA, its parent, subsidiaries and/or affiliates shall not be liable or responsible in any way for any loss of or damage or injury to any equipment as referred to in this Agreement or other personal property belonging to Contractor or any personnel of Contractor while in any area of the building; nor shall the MPHA, its parent, subsidiaries and/or affiliates be liable for any injury suffered by any personnel of Contractor while on or in the MPHA's property. Personnel of Contractor shall make all necessary arrangements for the safety and security of such equipment and other personal property at all times. In no event shall the MPHA be liable to Contractor for any indirect, incidental, consequential or exemplary damages.
- 10.14 Agreement Design.**
- 10.14.1** The parties agree that this Agreement and any attachments, exhibits and/or addenda are contractual in nature and voluntarily entered into by both parties as their free act and deed, acting in their individual judgment without reliance upon any statement or representation of the other party. This Agreement and any attachments, exhibits and/or addenda constitutes the entire understanding, oral or written, between the parties, and supersedes any and all prior discussions and/or agreement between the parties. The parties agree that any alteration to any exhibits, attachments and/or addenda noted therein or herein, and attached hereto shall be null and void, unless made in writing by mutual agreement. The parties agree to execute whatever additional documents are deemed reasonably necessary to effectuate this transaction.
- 10.14.2** Both parties have been afforded the opportunity to have this Agreement reviewed by legal counsel and/or other consultants of their choice. The parties agree that the normal rule of construction against the drafter shall not apply to the provisions of this Agreement.
- 10.15 Indemnification.** To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the MPHA and 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 Contractor, 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. Contractor further agrees to obtain, maintain, and pay for such insurance coverage and endorsements as will insure the provisions of this paragraph.

- 10.16 Lobbying Certification.** By execution of this contract with the MPHA, Contractor certifies, to the best of its knowledge and belief, that:
- 10.16.1** 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 an MPHA, 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 loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 10.16.2** 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 an MPHA, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.
 - 10.16.3** Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- 10.17 Additional Federally Required Orders/Directives.** Both parties shall comply with the following laws and directives, where applicable:
- 10.17.1 Executive Order 11061**, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
 - 10.17.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964**, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The MPHA hereby extends this requirement to Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).
 - 10.17.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968.**, popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex, or national origin. Pursuant to this statute, the MPHA requires that Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
 - 10.17.4 The Age Discrimination Act of 1975**, which prohibits discrimination on the basis of age.

- 10.17.5** **Anti-Drug Abuse Act of 1988** (42 U.S.C. 11901 et. seq.).
- 10.17.6** **HUD Information Bulletin 909-23** which is the following:
- 10.17.6.1** Notice of Assistance Regarding Patent and Copyright Infringement;
- 10.17.6.2** Clean Air and Water Certification; and
- 10.17.6.3** Energy Policy and Conversation Act.
- 10.17.7** That the funds that are provided by the MPHA and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended, or ineligible contractor.
- 10.17.8** That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.
- 10.17.9** The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable nor is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. Each provision of law and each clause, which is required by law to be inserted in this contract, shall be deemed to have been inserted herein, and this contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this contract shall forthwith be physically amended to make such insertion or correction upon the application of either part.

11.0 **Section 3 Clause.** As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are included as a part of this contract.

- 11.1** 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.
- 11.2** 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.
- 11.3** Contractor agrees to send to each labor organization or representative of workers with which 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.
- 11.4** 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 Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

- 11.5** 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.
- 11.6** 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.
- 11.7** 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).

12.0 Appendices.

12.1 The following documents are a part of this contract:

- 12.1.1** **Contract Appendix No. 1.** Form HUD-5370-C (01/2014), *General Condition for Non-Construction Contracts, Public and Indian Housing Programs*;
- 12.1.2** **Contract Appendix No. 2.** Form HUD-5370-C1 (1/2014), *General Conditions for Non-Construction Contracts Section I (With or Without Maintenance Work)*;
- 12.1.3** **Contract Appendix No. 3.** Form HUD-5370-C2 (1/2014), *General Conditions for Non-Construction Contracts, Public and Indian Housing Programs (With Maintenance Work)*;
- 12.1.4** **Contract Appendix No. 4.** *Form HUD-50071*;
- 12.1.5** **Contract Appendix No. 5.** *Sample Notice to Proceed form*;
- 12.1.6** **Contract Appendix No. 6.** *Davis-Bacon General Wage Decision*;
- 12.1.7** **Contract Appendix No. 7.** *Section 3 Plan*;
- 12.1.8** **Contract Appendix No. 8.** *Right to Know form*;
- 12.1.9** **Contract Appendix No. 9.** *State and Federal Data Privacy Statement*;
- 12.1.10** **Contract Appendix No. 10.** *Technical Specifications*;
- 12.1.11** **Contract Appendix No. 11.** *Schedule of Contractor's Hourly Rates*;
- 12.1.12** **Contract Appendix No. 12.** *Schedule of Contractor's Maintenance Fees*; and

12.1.13 Contract Appendix No. 13. The fees that apply to each procurement that ensues from this Contract.

12.1.14 Inclusion by Reference. Included by reference is any document or clause issued as a part of **IFB No. B18019** 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 Contractor.

12.2 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. Contractor shall notify the MPHA if it discovers a discrepancy in the Contract documents.

13.0 Representations & Certifications.

13.1 Contractor represents that it will (i) perform elevator maintenance services under this Agreement in accordance with acceptable industry professional and ethical standards, (ii) not proceed with performance of various aspects of the Services, unless pre-authorized (“Pre-approved Services”) by the MPHA or MPHA’s Designee at the property, (iii) conduct any handling of MPHA’s Confidential Information in accordance with acceptable industry professional and ethical standards, (iv) not represent to any third party that it has authority to sign, endorse or represent a contractual relationship with or in MPHA’s name, or enter into any agreement on behalf of MPHA in connection herewith (unless expressly pre-authorized in writing by MPHA), (v) safeguard the physical security of MPHA’s Confidential Information if it has access to or possession of such information, (vi) ensure that only “Authorized Representatives” of this Agreement, will have access to any of MPHA’s Confidential Information while rendering the Services, and that it will not be copied, or disseminated to anyone other than the Authorized Representative, and (vii) ensure that all of its employees, representatives, agents or assigns will not solicit any of the MPHA’s employees for any purpose. The Parties agree that any alteration to any of the Appendices or Exhibits hereto shall be null and void, unless made in writing by mutual consent of the Parties. The obligations of Contractor set forth herein shall remain in full force and effect for the later of a period of one (1) year from the date of termination or expiration of this Agreement, or the date the Confidential Information is returned to whomever disclosed such information, after the date of termination or expiration of this Agreement.

13.2 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:

CONTRACTOR:

By: _____ Date: _____
CONTRACTOR NAME

Minneapolis Public Housing Authority:

By: _____ Date: _____
Greg Russ, Executive Director/CEO

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