

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

**INTRODUCTION**

This contract between Minneapolis Public Housing Authority in and for the City of Minneapolis, a body corporate and politic (MPHA) and \_\_\_\_\_ (Contractor) is hereby entered into this \_\_\_\_ **day of** \_\_\_\_\_, **2019**.

Services pursuant to this contract shall begin on **the** \_\_\_\_ **day of** \_\_\_\_\_, **2019**, and shall end on the \_\_\_\_ **day of** \_\_\_\_\_, **2020**, unless otherwise extended, modified, terminated or renewed by the parties as provided for in this contract. The term "herein" as used throughout this contract refers to this contract form, the appendices and all listed attachments. The term "IFB" as used throughout this contract refers to Invitation for Bids No. B19014.

**1.0 Services and Payment.**

**1.1 Scope of Services.** The services provided under this contract generally consist of those services as described herein, specifically in Contract Appendix No. 8, Scope of Services. Said services shall be provided on an as needed basis as determined by MPHA. MPHA shall retain the right to implement and/or enforce any item issued as part of the IFB.

**1.2 Provisions of any and all Work (Work Orders).** The Contractor shall not begin any work without the receipt of a completed Work Order from the authorized MPHA representative. The Work Order may take the form of an e-mail.

**1.3 Contract Value.** The current total Not-To-Exceed (NTE) value of this contract is:

\$ \_\_\_\_\_

The Contractor exceeds the NTE amount at its own risk. The Contractor is under no obligation to provide additional goods and/or services that would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order. Further, MPHA reserves the right to amend the NTE amount at any time during the ensuing contract period(s).

**1.4 Renewal Options.** This contract is initially executed for a period of 12 months with the option, at MPHA's discretion, to extend multiple times up to 48 additional months, for a maximum total of 60 months.

**1.5 Billing Method.**

**1.5.1** To receive payment for services rendered under this contract, the Contractor shall submit a fully completed invoice for work previously performed to:

**Minneapolis Public Housing Authority  
Attention: Accounts Payable, Suite 307  
1001 Washington Ave N, Minneapolis, MN 55401  
or: [invoices@mplspha.org](mailto:invoices@mplspha.org)**

**1.5.2** At a minimum, the invoice shall detail the following information:

**1.5.2.1** Unique invoice number;

**1.5.2.2** Contractor's name, address and telephone number;

**MINNEAPOLIS PUBLIC HOUSING AUTHORITY**

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

- 1.5.2.3 Date of invoice and/or billing period;
- 1.5.2.4 Contract number;
- 1.5.2.5 Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site;
- 1.5.2.6 Address where work was performed; and
- 1.5.2.7 Total dollar amount being billed.

1.5.3 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 the Contractor complies with the applicable provisions of this contract.

1.5.4 The Contractor shall deliver to MPHA an invoice each month for services performed the previous month.

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

**2.1 Supervision and Oversight.** The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel assigned to MPHA properties under this contract.

**2.2 Qualified Personnel.** The Contractor 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 in this contract or as provided by the Contractor during the Contractor's normal conduct of business.

**2.3 Insurance Requirements.** The Contractor shall purchase and maintain insurance as required to protect the Contractor and MPHA from claims set forth in items 2.3.1 through 2.3.3 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 the Contractor, its agents or employees, of materials, equipment, instrumentalities or other property, whether the same be owned by MPHA, the Contractor, subcontractors or third parties. The insurance required hereunder shall be effective and apply whether such claims arise by the Contractor or by anyone directly or indirectly employed by the Contractor or by anyone for whose acts the Contractor may be liable.

The Contractor shall require its subcontractors, if any, to comply with all insurance requirements in this contract. The 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:

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

**2.3.1 Worker's Compensation Insurance/Employer's Liability.** Claims under the 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 \$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 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
- Blanket Contractual Liability
- Broad Form Property Damage
- Personal Injury
- Operations of Independent Contractors

|                |                 |             |
|----------------|-----------------|-------------|
| Policy Limits: | Personal Injury | \$1,500,000 |
|                | Each Occurrence | \$1,500,000 |

**The \$1,500,000 policy limits may be a combination of underlying and excess liability (follows form) policies.** Commercial General Liability insurance required under this paragraph shall be written on an occurrence form.

**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.

The limits of liability specified above are minimum requirements. Approval of the insurance by MPHA shall not relieve or decrease the liability of the Contractor. MPHA does not in any way represent that the insurance or limits of insurance specified above are sufficient or adequate to protect the 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.

The Contractor shall endorse its Commercial General Liability and Umbrella/Excess Liability policies to add MPHA as an additional insured with respect to liability arising out of (a) operations performed for MPHA by or for the Contractor, (b) the Contractor's completed work under this contract, (c) claims for bodily injury or death brought against any of the additional insureds by the Contractor's employees, or the employees of its subcontractors of any tier, however caused, related to the performance of the work under

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

this contract. Such insurance afforded to MPHA as additional insured under the Contractor's policies shall be primary insurance and not excess over, or contributing with, any insurance purchased or maintained by MPHA or others required to be included as additional insureds. The additional insured status must be reflected on the Contractor's Certificate of Insurance to MPHA.

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

Certificates of Insurance and policy endorsements indicating additional insured status shall be filed with MPHA prior to commencing any work hereunder. MPHA shall not be obligated to review certificates or other evidence of insurance, or to advise the Contractor of any deficiencies in such documents, and receipt thereof shall not relieve the Contractor from, nor be deemed a waiver of 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 MPHA. MPHA shall have the right to examine any policy or endorsements required under this contract.

All insurance policies required to be obtained by the Contractor and its subcontractors hereunder shall include a waiver of subrogation by endorsement or otherwise in favor of 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 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 MPHA:

**Minneapolis Public Housing Authority  
Attention: Ayla LeRoy, Buyer  
1001 Washington Ave N, Minneapolis, MN 55401**

**2.4 Licensing.** The Contractor shall also provide MPHA with 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 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. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

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

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

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

**2.7 Semi-Annual Meetings.** The Contractor shall attend semi-annual meetings with MPHA to go over the contract and discuss expectations and any concerns, with the first meeting occurring at the inception of this contract and every six months thereafter.

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

**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 Contractor 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 and Reports.**

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

**Minneapolis Public Housing Authority**  
**Attention: \_\_\_\_\_**  
**1001 Washington Ave N, Minneapolis, MN 55401**

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

or, if appropriate, e-mailed to: \_\_\_\_\_.

- 6.2** All notices and/or reports submitted to the Contractor by MPHA shall be in writing and delivered to the attention of the following person representing the Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or, if appropriate, e-mailed to: \_\_\_\_\_.

- 7.0** **2 CFR § 200, *Procurement Standards***. Pursuant to this CFR, as issued by the Office of the Secretary, HUD, MPHA and the Contractor each agree:

- 7.1 Remedies for Contractor Breach.** Regarding contract-related issues, it is the responsibility of both MPHA and the Contractor to communicate with each other in as clear and complete a manner as possible. If at any time during the term of this contract 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, MPHA shall retain the right to, if conditions warrant, require the Contractor to respond in a shorter period of time).

**7.1.1** If the Contractor is in material breach of the contract, MPHA may promptly invoke the termination clause detailed in as detailed in Clause No. 3 of Contract Appendix No. 1, form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, and terminate the contract for cause. Such termination must be delivered to the Contractor in writing and shall fully detail all pertinent issues regarding the cause of and justification for the termination.

**7.1.2** Prior to termination, 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. If the Contractor does not agree with such action, the Contractor shall have 10 days to dispute or protest, in writing, such action; if they do not do so within the 10-day period, they shall have no recourse but to accept and agree with MPHA's position. The written protest must detail all pertinent information, including justification detailing MPHA's alleged incorrect action(s).

**7.1.3** After termination, if the Contractor does not agree with MPHA's justification for termination, the Contractor shall have 10 days to dispute such in writing; if the Contractor does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with MPHA's position. The written protest must detail all pertinent information, including justification detailing MPHA's alleged incorrect action(s).

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

- 7.2 Termination for Cause and Convenience.** As detailed in Clause No. 3 of Contract Appendix No. 1, form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*.
- 7.3 Copeland “Anti-Kickback” Act.** For all construction or repair contracts awarded, both parties shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 7.4 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 shall comply with the 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).
- 7.5 Reporting.** Both parties shall comply with any reporting requirements that may be detailed herein.
- 7.6 Patent Rights.** Both parties hereby agree to comply with HUD Bulletin 909-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 7.7 Access to Records.** Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor agency, 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.
- 7.8 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.
- 7.9 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 Agency regulations (40 CFR Part 15).
- 7.10 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).
- 8.0 Additional Considerations.**
- 8.1 Non-Escalation.** Unless otherwise specified, the unit prices reflected in the contract shall remain firm with no provision for price increases during the term of the contract.
- 8.2 Funding Restrictions and Order Quantities.** MPHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary or terminate the contract without prejudice or liability to MPHA, if:
- 8.2.1** Funding is not available;

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

**8.2.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or

**8.2.3** MPHA's requirements in good faith change after award of the contract.

**8.3 Local, State, and/or Federal Permits.** Unless otherwise stated, all local, State or Federal permits which may be required to provide the services ensuing from award of this contract, whether or not they are known to either MPHA or the Contractor at the time of the bid submittal deadline or the contract award, shall be the sole responsibility of the Contractor and any costs that were submitted by the Contractor in response to the IFB shall reflect all costs required by the Contractor to procure and provide such necessary permits.

**8.4 Government Standards.** The 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 enacted ordinance, code, law or regulation. The Contractor 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 Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.

**8.5 Official, Agent and Employees of MPHA Not Personally Liable.** In no event shall any official, officer, employee, or agent of 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 contract.

**8.6 Subcontractors.** Unless otherwise stated, the Contractor may not use any subcontractors to accomplish any portion of the services described in the IFB documents or the contract without MPHA's prior written permission.

**8.7 Prompt Payment to Subcontractors.** Pursuant to Minn. Stat. § 471.425, subd. 4a, the 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. The 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.

For an unpaid balance of less than \$100.00, the 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 the Contractor, the Contractor shall pay the subcontractor's reasonable costs and disbursements, including attorney's fees.

**8.8 Salaries and Expenses Relating to Contractor's Employees.** Unless otherwise stated, the 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. The 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 contract.

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

- 8.9 Independent Contractor.** Unless otherwise stated, the 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.
- 8.10 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.
- 8.11 Time of the Essence.** Time is of the essence as to each contract provision in which time of performance is a factor.
- 8.12 Limitation of Liability.** In no event shall MPHA be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.
- 8.13 Indemnification.** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless MPHA and MPHA's consultants, 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 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. The Contractor further agrees to obtain, maintain and pay for such Commercial General Liability insurance coverage and endorsements as will insure the provisions of this paragraph.
- 8.14 Lobbying Certification.** By execution of this contract with MPHA, the Contractor certifies, to the best of its knowledge and belief that it has complied with HUD Form 50071, which has been included in this contract as Contract Appendix No. 5.
- 8.15 Additional Federally Required Orders/Directives.** Both parties shall comply with the following laws and directives, where applicable:
- 8.15.1 Executive Order 11063,** 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.
- 8.15.2 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. MPHA hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).

- 8.15.3** **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, 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.
- 8.15.4** **The Age Discrimination Act of 1975**, which prohibits discrimination on the basis of age.
- 8.15.5** **Anti-Drug Abuse Act of 1988** (42 U.S.C. 11901 et. seq.).
- 8.15.6** **HUD Information Bulletin 909-23** which is the following:
- 8.15.6.1** Notice of Assistance Regarding Patent and Copyright Infringement;
- 8.15.6.2** Clean Air and Water Certification; and
- 8.15.6.3** Energy Policy and Conservation Act.
- 8.15.7** That the funds that are provided by 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.
- 8.15.8** 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.
- 8.15.9** 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.

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

- 9.0 Section 3 Clause.** As detailed in 24 CFR 135.38, *Section 3 clause*, the following clauses are included as part of this contract.
- 9.1** 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.
- 9.2** 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.
- 9.3** 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.
- 9.4** 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.
- 9.5** 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.
- 9.6** 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.
- 9.7** 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).

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

**10.0 Appendices.**

**10.1** The following documents are part of this contract:

**10.1.1 Contract Appendix No. 1.** form HUD-5370-C (1/2014), *General Conditions for Non-Construction Contracts, Section I – (With or without Maintenance Work)*;

**10.1.2 Contract Appendix No. 2.** form HUD-5370-C (1/2014), *General Contract Conditions for Non-Construction Contracts, Section II – (With Maintenance Work)*;

**10.1.3 Contract Appendix No. 3.** Form HUD-52158 (06/2006), *Maintenance Wage Rate Decision*;

**10.1.4 Contract Appendix No. 4.** Section 3 Plan;

**10.1.5 Contract Appendix No. 5.** HUD Form 50071, *Certification of Payments to Influence Federal Transactions*;

**10.1.6 Contract Appendix No. 6.** State and Federal Data Privacy Statement;

**10.1.7 Contract Appendix No. 7.** Affidavit of Compliance with HUD Determined Wage Rules;

**10.1.8 Contract Appendix No. 8.** Scope of Services; and

**10.1.9 Contract Appendix No. 9.** Proposed Fees.

**10.1.10 Inclusion by Reference.** Included by reference is any document or clause issued as part of the IFB that MPHA may choose to include at any time during the performance of this contract or any options exercised thereto by 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 MPHA upon written request for such from the Contractor.

**10.2 Order of Precedence.** In the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed in the body of this contract shall take first precedence, then the requirement(s) detailed in each appendix. The Contractor shall notify MPHA if it discovers a discrepancy in the contract documents.

-Signatures on the Following Page-

**Invitation for Bids (IFB) No. B19014, Tree Services  
Attachment H, Sample Contract**

**11.0 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:

**[Contractor]:**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
[Name], [Title]

**Minneapolis Public Housing Authority:**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
[Name], [Title]

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
[Name], [Title]  
(As to Form and Execution)

# General Conditions for Non-Construction Contracts

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

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

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

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

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

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

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

#### 3. Termination for Convenience and Default

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

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

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

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- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
  - (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
    - (i) appeals under the clause titled Disputes;
    - (ii) litigation or settlement of claims arising from the performance of this contract; or,
    - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

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

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

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

#### 6. Energy Efficiency

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

#### 7. Disputes

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

#### 8. Contract Termination; Debarment

#### 9. Assignment of Contract

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

#### 10. Certificate and Release

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

#### 11. Organizational Conflicts of Interest

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

#### 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

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

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

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

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

(a) Definitions. As used in this clause:

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

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

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

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

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

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

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## 16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

## 17. Dissemination or Disclosure of Information

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

## 18. Contractor's Status

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

## 19. Other Contractors

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

## 20. Liens

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

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

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

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apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

## **22. Procurement of Recovered Materials**

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

# General Conditions for Non-Construction Contracts

## Section II – (With Maintenance Work)

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

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

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

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$100,000 – use Sections I and II.

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

#### 1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
  - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
  - (2) The classification is utilized in the area by the industry; and
  - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

in the classification under this Contract from the first day on which work is performed in the classification.

#### 2. Withholding of funds

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

#### 3. Records

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

#### 4. Apprentices and Trainees

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

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice; A

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

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

**5. Disputes concerning labor standards**

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

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

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

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

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

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

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

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

## **7. Subcontracts**

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this Section II and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the provisions contained in these clauses.

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

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

**Maintenance Wage Rate Decision**

**U.S. Department of Housing and  
Urban Development  
Office of Labor Relations**

**HUD FORM 52158  
(06/2006)**

Agency Name:  
**Minneapolis PHA  
1001 Washington Ave  
Minneapolis MN 55401**

LR 2000 Agency ID No:  
**MN079A**

Wage Decision Type:  
 **Routine Maintenance**  
 **Nonroutine Maintenance**

Effective Date:  
**January 1, 2019**

Expiration Date:  
**December 31, 2020**

The following wage rate determination is made pursuant to Section 12(a) of the U.S. Housing Act of 1937, as amended, (public housing agencies), or pursuant to Section 104(b) of the Native American Housing Assistance and Self-determination Act of 1996, as amended, (Indian housing agencies). The agency and its contractors may pay to maintenance laborers and mechanics no less than the wage rate(s) indicated for the type of work they actually perform.

**Loretta Szweduk, CIRS**  
HUD Labor Relations  
(Name, Title, Signature)

*Loretta Szweduk*

**11-14-18**  
Date

| WORK CLASSIFICATION(S)                              | HOURLY WAGE RATES |                             |
|---|-------------------|-----------------------------|
|   | BASIC WAGE        | FRINGE BENEFIT(S) (if any)  |
| Operating Maintenance Engineer                      | \$31.34           | As defined by the PHA 12.94 |
| Building & Grounds Specialist                       | \$17.80           | As defined by the PHA 7.12  |
| Service & Maintenance Specialist                    | \$23.39           | As defined by the PHA 9.44  |
| Maintenance Team Leader                             | \$40.83           | As defined by the PHA 16.33 |
| Preventative Maintenance Technician                 | \$23.53           | As defined by the PHA 9.41  |
| Journeyman Carpenter                                | \$37.02           | As defined by the PHA 21.45 |
| Electrician Foreman                                 | \$50.01           | As defined by the PHA 26.07 |
| Journeyman Electrician                              | \$46.96           | As defined by the PHA 20.69 |
| Carpenter Foreman                                   | \$38.77           | As defined by the PHA 21.45 |
| Journeyman Painter                                  | \$36.00           | As defined by the PHA 21.70 |
| Temporary Help Agency Building & Grounds Specialist | \$23.33           | As defined by the PHA N/A   |

The agency employee benefit program has been determined by HUD to be acceptable for meeting the prevailing fringe benefit requirements.

(HUD Labor Relations: If applicable, check box and initial below.)

\_\_\_\_\_  
LR Staff Initial

**FOR HUD USE ONLY  
LR2000:**

**Log in:**

**Log out:**

**Sample Contract Appendix No. 4, Section 3 Plan**

This Section 3 Plan is intended to meet the standards of 24 CFR 135; most specifically Section 135.1, to "ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, . . . be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing . . ."

**Section 1.0 - Current Status as a Section 3 Business Concern**

Complete the following to verify your firm's status as a "section 3 business concern:"

- 1.1** Yes\_\_ No\_\_: Mark if your firm is at least 51% owned by section 3 residents." If "Yes," submit the following noted documentation to verify this claim; if "No," proceed directly to Section 1.2.

[Table No. 1]

| (2)<br>Mark "X" if<br>Included | (3)<br>Description   |
|--------------------------------|--|
|                                | <b>MPHA resident lease</b>   |
|                                | <b>Evidence of participation in a public assistance program</b>                |
|                                | <b>Articles of Incorporation</b>   |
|                                | <b>Fictitious or Assumed Business Name Certificate</b>                         |
|                                | <b>List of owners/stockholders and % of each</b>                               |
|                                | <b>Latest Board minutes appointing officers</b>                                |
|                                | <b>Organization chart with names and titles and brief functional statement</b> |
|                                | <b>Partnership Agreement</b>   |
|                                | <b>Corporation Annual Report</b>   |

- 1.2** Yes\_\_ No\_\_: Mark if at least 30% of your firm's permanent, full-time employees are persons whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents." If "Yes," to justify this claim, submit the following documentation in Table No. 3 to justify this claim. If "No," proceed directly to Section 1.3.

- 1.2.1** Low- and very low-income in Hennepin County, MN is defined as residents in the following income levels for FY 2019 (Median Income = \$100,000):

[Table No. 2]

| Income Limit<br>Category       | (1)<br>Person   | (2)<br>Persons  | (3)<br>Persons  | (4)<br>Persons  | (5)<br>Persons  | (6)<br>Persons  | (7)<br>Persons  | (8)<br>Persons  |
|--------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| <b>Very Low<br/>(50%)</b>      | <b>\$35,000</b> | <b>\$40,000</b> | <b>\$45,000</b> | <b>\$50,000</b> | <b>\$54,000</b> | <b>\$58,000</b> | <b>\$62,000</b> | <b>\$66,000</b> |
| <b>Extremely<br/>Low (30%)</b> | <b>\$21,000</b> | <b>\$24,000</b> | <b>\$27,000</b> | <b>\$30,000</b> | <b>\$32,400</b> | <b>\$34,800</b> | <b>\$39,010</b> | <b>\$43,430</b> |
| <b>Low (80%)</b>               | <b>\$52,850</b> | <b>\$60,400</b> | <b>\$67,950</b> | <b>\$75,500</b> | <b>\$81,550</b> | <b>\$87,600</b> | <b>\$93,650</b> | <b>\$99,700</b> |

Income Limit figures are based on FY2019 Fair Market Rent (FMR). For a detailed account of how these limits are derived, please see our associated FY2019 FMR documentation.

**Sample Contract Appendix No. 4, Section 3 Plan**

[Table No. 3]

| (1)<br>Classification | (2)<br>Total Number of Current<br>Permanent Employees | (3)<br>Total Number of Section 3<br>Resident Employees |
|-----------------------|---|--|
| Trainees              |   |  |
| Apprentices           |   |  |
| Journeypersons        |   |  |
| Laborers              |   |  |
| Supervisory           |   |  |
| Superintendent        |   |  |
| Professional          |   |  |
| Clerical              |   |  |
| Other: _____          |   |  |

1.2.2 If quantities are entered in Table No. 3 above, provide proof or statement of Section 3 eligibility.

1.3 Yes\_\_ No\_\_: Mark if your firm commits to subcontract at least 25% of the dollar award of all subcontracts to be awarded to businesses that meet the qualifications of a section 3 business concern.

[Table No. 4]

| (1)<br>Name of Section 3 Firm Receiving<br>the Subcontract | (2)<br>Total Amount of<br>Subcontract(s) | (3)<br>Percentage the Subcontract(s)<br>is of Total Proposed Contract<br>Amount |
|--|--|---|
|  | \$                                       | %   |
|  | \$                                       | %   |

1.3.1 Attach fully executed copies of any contracts noted above; and

1.3.2 Provide proof or a statement of each firm's Section 3 eligibility.

1.4 **Instructions.** If your firm is unable to claim a Section 3 status as detailed in Section 1.0, please move to Section 2.0.

**Sample Contract Appendix No. 4, Section 3 Plan**

**Section 2.0 - Additional Efforts to Satisfy the Requirements of Section 3**

**2.1** Mark if your firm will perform the following "Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents" as detailed in Appendix I of 24 CFR 135.

[Table No. 5]

| (1)<br>Section | (2)<br>"X" if<br>Will Do | (3)<br>Description of Commitment  |
|----------------|--------------------------|---|
| 2.1.1          |                          | Enter into "first source" hiring agreements with organizations representing Section 3 residents.  |
| 2.1.2          |                          | Sponsor a HUD-certified "Step-Up" employment and training program for section 3 residents.  |
| 2.1.3          |                          | Establish training programs consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.  |
| 2.1.4          |                          | Advertise the training and employment positions by distributing flyers identifying the positions to be filled, the qualifications required, and where to obtain additional information about the application process to every occupied dwelling unit in housing development(s) where category 1 or category 2 persons reside.   |
| 2.1.5          |                          | Advertise training and employment positions by posting flyers identifying the positions to be filled, the qualifications required, and where to obtain additional information about the application process in common areas or other prominent areas of housing development(s). Post advertisements in housing development(s) where category 1 or category 2 persons reside. For all other recipients, post advertisements in housing development(s) and/or local transitional housing. |
| 2.1.6          |                          | Contact resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development(s) where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request assistance in notifying residents of the training and employment positions to be filled.   |
| 2.1.7          |                          | Sponsor (schedule, advertise, finance or provide in-kind services) a job informational meeting to be conducted by the MPHA or the Contractor at a location in the housing development(s) where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.   |
| 2.1.8          |                          | Arrange assistance in conducting job interviews and completing job applications for residents of the housing development(s) where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.  |
| 2.1.9          |                          | Arrange for a location in the housing development(s) where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or Contractor representative(s).  |
| 2.1.10         |                          | Conduct job interviews at the housing development(s) where category 1 or category 2 persons reside, or at a location in the neighborhood or service area of the section 3 covered project.  |

**Sample Contract Appendix No. 4, Section 3 Plan**

|               |  |   |
|---------------|--|---|
| <b>2.1.11</b> |  | Contact agencies administering HUD Youthbuild programs, and request their assistance in recruiting HUD Youthbuild program participants for MPHA's or Contractor's training and employment positions.  |
| <b>2.1.12</b> |  | Consult with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for training and employment positions. |
| <b>2.1.13</b> |  | Advertise jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.   |
| <b>2.1.14</b> |  | Employ a job coordinator or contract with a business concern that is licensed in the field of job placement that will undertake efforts to match eligible and qualified section 3 residents with the training and employment positions that the MPHA or the Contractor intend to fill.                                  |
| <b>2.1.15</b> |  | Employ section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance.   |
| <b>2.1.16</b> |  | Maintain a file of eligible qualified section 3 residents for future employment positions.  |
| <b>2.1.17</b> |  | Undertake job counseling, education and related programs in association with local educational institutions.  |
| <b>2.1.18</b> |  | Undertake continued job training efforts as necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.  |
| <b>2.1.19</b> |  | After selection of proposers, but prior to execution of contracts, incorporate into contract(s) a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.  |
| <b>2.1.20</b> |  | Coordinate plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with planning for housing and community development.  |

**2.2 Section 3 Preference Claim, Training and Employment Opportunities.** Answer if your firm will provide opportunities as follows to:

[Table No. 6]

| <b>(1)<br/>Section</b> | <b>(2)<br/>"X" if<br/>Will Do</b> | <b>(3)<br/>Description of persons such Opportunities will be provided to</b>   |
|------------------------|-----------------------------------|--|
| <b>2.2.1</b>           |                                   | Residents of the housing development(s) for which the section 3 covered assistance is expended (category 1 residents).   |
| <b>2.2.2</b>           |                                   | Residents of other housing developments managed by MPHA that is expending the section 3 covered housing assistance (category 2 residents).   |
| <b>2.2.3</b>           |                                   | Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents); |
| <b>2.2.4</b>           |                                   | Other section 3 residents (attach complete description).   |

**Sample Contract Appendix No. 4, Section 3 Plan**

**2.3 Section 3 Preference Claim, Section 3 Business Concerns.** Answer if your firm will provide opportunities as follows to:

[Table No. 7]

| (1)<br>Section | (2)<br>“X” if Will<br>Do | (3)<br>Description of persons such Opportunities will be provided to  |
|----------------|--------------------------|---|
| 2.3.1          |                          | Business concerns that are 51% or more owned by residents of the housing development(s) for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes at least 30% of these persons (category 1 businesses).                                 |
| 2.3.2          |                          | Business concerns that are 51% or more owned by residents of other housing developments or developments managed by the MPHA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes at least 30% of these persons (category 2 businesses). |
| 2.3.3          |                          | HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).   |
| 2.3.4          |                          | Business concerns that are 51% or more owned by section 3 residents, or whose permanent, full-time workforce includes at least 30% section 3 residents (category 4 businesses), or that subcontract at least 25% of the total amount of subcontracts to business concerns.              |

**2.4 Instructions.** If your firm is unable to satisfy the Section 3 requirements detailed in Section 2.0, please move to Section 3.0.

**Section 3.0 - Potential Hiring Efforts to Satisfy the Requirements of Section 3**

**3.1** Please answer if your firm agrees to satisfy the Section 3 requirements by one of the following methods:

**3.1.1 Section 3 Hiring Goals.** If your firm will need to hire additional employees as a result of this contact, please indicate your anticipated commitment to the number of new Section 3 hires in Table No. 8 below:

[Table No. 8]

| (1)<br>Classification | (2)<br>Total<br>Number of<br>Current<br>Permanent<br>Employees | (3)<br>Total Number<br>of New Hires<br>that will result<br>from this<br>contract | (4)<br>Goal: Total Number of<br>Section 3 New Hires that<br>the Contractor<br>anticipates will result<br>from this contract |
|-----------------------|--|--|---|
| <b>Trainees</b>       |  |  |   |
| <b>Apprentices</b>    |  |  |   |
| <b>Journeypersons</b> |  |  |   |
| <b>Laborers</b>       |  |  |   |
| <b>Supervisory</b>    |  |  |   |
| <b>Superintendent</b> |  |  |   |
| <b>Professional</b>   |  |  |   |
| <b>Clerical</b>       |  |  |   |
| <b>Other:</b>         |  |  |   |

**3.1.2 Instructions.** If your firm is unable to satisfy the Section 3 requirements detailed in Section 3.1.1, continue to Section 3.1.3.

**3.1.3 Interviewing and Potential Hiring of MPHA Residents.** If your firm hires any new employees, you must agree to, as part of your new hire process for any open positions during this contract:

**3.1.3.1** Review MPHA's listing of residents who have registered and declared his/her desire to interview and accept a job;

**3.1.3.2** In the same manner that you do with other applicants, conduct an interview with such residents who have claimed experience within a certain skill set or field and have expressed a desire to interview; and

**3.1.3.3** If, as a result of the interview process, the resident qualifies for the position and passes all such testing (e.g. skills test; drug tests; credit checks; background check; etc.), you shall agree to offer the position to the resident.

**3.1.3.4** Your firm shall agree that all MPHA residents will, during the interview process, be treated equal to and in the same manner as, any non-resident person who interviews with our firm. [NOTE: The Contractor shall have no responsibility to hire any resident who does not qualify for the position. However, the Contractor will be required to report to MPHA the results of such testing and checks, and fully inform MPHA why the resident(s) was not hired.]

**3.1.3.5** Further, your firm shall agree to inform MPHA in writing of the following within 5 days after a new employee has been hired:

- The position title;
- The name of the person hired;
- The date the listing of MPHA resident(s) desiring interviews were reviewed by the Contractor;
- The name(s) of MPHA resident(s) that the Contractor contacted for an interview including the date, time, and method that such contact took place;
- The results of the contact (specifically, did the interview take place; if so, when; if not, why); and
- Regarding any MPHA resident(s) who is not hired, the results of any tests and checking that the Contractor completed (especially any such results that prevented the resident(s) from being offered the position).



# Certification of Payments to Influence Federal Transactions

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

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Applicant Name

---

Program/Activity Receiving Federal Grant Funding

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The undersigned certifies, to the best of his or her knowledge and belief, that:

(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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned 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.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

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|                             |                   |
|-----------------------------|-------------------|
| Name of Authorized Official | Title             |
| Signature                   | Date (mm/dd/yyyy) |

**MPHA Contract No. \_\_\_\_\_**  
**State and Federal Data Privacy Statement**

The undersigned Vendor and persons performing services under Contract No. \_\_\_\_\_ may have access to MPHA data that is classified private data under the Minnesota Government Data Practices Act, Minn. Stat. §13.01 et. al. and applicable federal law.

Data about tenants or program participants, including but not limited to their names, unit numbers and property addresses, except for highrise buildings, are benefit data and private. See Minn. Stat. §13.462. Vendor will ensure that persons who receive private data will protect the status of such data. Unauthorized disclosure of private data is subject to civil and criminal penalties.

Vendor will ensure that persons who have access to private data will comply with state and federal law. No one shall obtain, access, view, disclose or reproduce the private data for any purpose except when needed to perform this contract.

Vendor will return to MPHA or confidentially destroy all copies of private data when no longer necessary to perform the contract.

Vendor will not disclose private data to an Unauthorized Person. An Authorized Person is a person who has access to the private data without a work assignment that reasonably requires the data regardless of work assignment for a purpose not authorized by Minn. Stat. § 13.05 subd. 5.

Vendor will prevent a Breach of Security. A Breach of Security means the unauthorized acquisition (as defined in Minn. Stat. § 13.055) of MPHA private data that compromises the security and classification of the data. If a Breach of Security occurs, Vendor will comply with the notice and report procedures in Minn. Stat. § 13.055

Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name of Vendor

By: \_\_\_\_\_  
Print Name

Its: \_\_\_\_\_  
Print Title

Signature: \_\_\_\_\_

# NOTICE TO CONTRACTORS

From: MPHA Procurement Coordinator

Subject: HUD – Determined Wage Rates  
Routine and Non-Routine Maintenance  
HUD Labor Relations Letter No. LR 2004-01

Effective immediately, HUD has eliminated the requirement of payroll certification and week wage payments as it pertains to Routine and Non-Routine Wage Decisions (please note that this does not pertain to Davis-Bacon construction projects). However, you are still required to create and maintain records that demonstrate your compliance with HUD – determined prevailing wage payment. That is, you must create and maintain, for three (3) years after completion of the work, records (pertaining to each laborer and mechanic employed on each job) containing information demonstrating your compliance with HUD – determined wage rates applicable to the work; those records must include at least the following:

1. Name, address, and Social Security Number
2. Correct work classifications(s)
3. Hourly Rate(s) paid
4. Rate(s) of any fringe benefits paid
5. Number of daily and weekly hours worked ( a pay period may not exceed semi-monthly in duration)
6. Gross Wages earned
7. Any applicable and lawful deductions made
8. Actual wages paid

You are required to make these records available for inspection or transcription by authorized representatives of the MPHA or HUD. In addition, you must permit authorized representatives of HUD and MPHA to interview your employees during normal working hours. Further, if you choose to not submit certified payrolls, you will be required to provide to the MPHA Procurement Coordinator, prior to beginning work on the contract, a written affidavit declaring that all employees involved with the contract will be paid according to the Wage Determination document applicable to the contract.

With regard to payroll periods, you are no longer required to pay employees on a weekly basis; however, a pay period may not be of longer duration than semi-monthly.

Should you have questions in this regard, please call (612-342-1404) or write to MPHA Procurement Coordinator at 1001 Washington Avenue North Minneapolis, MN 55401

