

Contract Extension # 5

Minneapolis Highrise Representative Council

Contract Extension Agreement

Contract No. # PH-02.63 Original Notice to Proceed Date 12-3-02

Original Completion Date 12-3-07

The subject contract is hereby extended from 7/3/10

to 10/3/10 and this agreement is entered into pursuant to

This agreement must be signed by a principal of the contracting firm (or authorized representative) and the MHRC President and Executive Director. Except as provided herein, all terms and conditions of contract # PH-02.63 remain unchanged and in full force and effect.

Minneapolis Highrise Representative Council:

(Date)
7/29/10

(Date)

(MHRC President)
Barbara Harris

(MHRC Executive Director)

Contractor:
8-12-10

(Date)

(Signature)
Patrick Q Reddin

(Name) Please print

PATRICK Q Reddin

(Name) Please print
Vice President

(Title) Please print

CONTRACT #PH-02.63

PROFESSIONAL SERVICE AGREEMENT

between

MINNEAPOLIS HIGHRISE REPRESENTATIVE COUNCIL

and

BDS LAUNDRY SYSTEMS

12/3/02 }
03 } 1
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07 } 5

THIS AGREEMENT, (the "Agreement"), effective 12/3/02, 2002, is between the MINNEAPOLIS HIGHRISE REPRESENTATIVE COUNCIL (MHRC), a body politic and corporate, duly created, organized and existing under the laws of the State of Minnesota, and BDS LAUNDRY SYSTEMS, (CONTRACTOR).

WHEREAS, MHRC is seeking the services of a qualified Contractor to provide, install and maintain coin-operated washers and dryers at 38 - 39 Minneapolis Public Housing Authority (MPHA) highrise buildings;

WHEREAS, MHRC selected the CONTRACTOR pursuant to MPHA's formal Request for Proposal (RFP) and Procurement Policy;

WHEREAS, CONTRACTOR represents it is qualified and authorized to perform these services.

NOW, THEREFORE, the parties agree as follows:

I. SCOPE OF SERVICES

CONTRACTOR, working under the direction of MHRC Contract Administrator, shall do, perform and carry out in a prompt, satisfactory and professional manner all necessary services required including, but not necessarily limited to, the following:

- Furnish and pay for all labor, materials, parts, equipment, tools, supervision, permits, insurance, bonds and transportation required to provide, install and maintain Maytag coin-operated washers and dryers in 38 - 39 MPHA Highrise Buildings per Scope of Services of Request for Proposal documents, refer to Attachment #2, Appendix B of this Agreement for the models selected.

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II. TIME OF PERFORMANCE

The service availability of **CONTRACTOR** shall be effective on the date of the Agreement and will continue at **MHRC's** sole discretion for a period of five (5) consecutive calendar years, with an option to extend the Agreement on a month-by-month basis for a time period not to exceed six (6) months.

III. AUTHORIZATION TO PERFORM SERVICES

All service, documents and information to be provided shall be furnished as promptly as possible after request by **MHRC**. **CONTRACTOR** will proceed with the work in the sequence and order as **MHRC** may request.

IV. PAYMENT OF COMMISSIONS

Payment of 72.1% of the monthly gross receipts in the form of a check shall be made to **MHRC** each month within fifteen (15) days of a specified date of collection as agreed upon by the parties in writing. Each payment shall be accompanied by a written statement of collections indicating the date of collection, a computer prepared report showing coin collection amounts for each machine, the amount collected from each building, total collection and the total amount due **MHRC**. Check shall be made payable to:

Minneapolis Highrise Representative Council
1627 South 6th Street
Minneapolis, MN 55454

MHRC shall not be liable for collections lost by or stolen. Also, if collections are lost by or stolen from **CONTRACTOR** following removal from the machines, **CONTRACTOR** shall make payment to **MHRC**.

V. PERSONNEL

CONTRACTOR represents that it has secured or will secure at its own expense, all personnel required to perform the services under this Agreement. Such personnel, if any, shall not be employees of or have any contractual relationship with **MHRC**.

CONTRACTOR or a subcontractor under **CONTRACTOR's** supervision and with **MHRC's** consent shall perform all required services. All subcontractors shall be fully qualified, authorized or permitted under applicable code, ordinance, law and regulation.

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VI. INDEPENDENT CONTRACTOR

CONTRACTOR is engaged only to the extent provided in the Agreement. The relationship of **CONTRACTOR** to **MHRC** during the term of this Agreement shall be that of an "independent contractor." **CONTRACTOR** shall perform its services as an independent contractor in accordance with its own methods, the terms of this Agreement and applicable law, regulation and ordinance. **CONTRACTOR** shall report to and perform its services under the direction of **MHRC's** Contract Administrator.

Employees of or other persons engaged by **CONTRACTOR** under this Agreement shall not be employees of **MHRC** or **MPHA**. All claims arising under Minnesota Worker's Compensation Act shall be the sole responsibility of **CONTRACTOR**. **CONTRACTOR** shall also have the sole responsibility for all claims, including but not limited to Worker's Compensation claims, arising out of the work or services provided by **CONTRACTOR**, **CONTRACTOR's** employees or subcontractors and any other persons engaged by **CONTRACTOR**.

VII. RETENTION OF RECORDS

CONTRACTOR shall retain financial records, supporting documents, statistical records and all other records pertinent to the services provided and expenditures made under this Agreement for a period of six (6) years from the end of the Agreement. Records relating to audit findings shall be retained for six (6) years after such findings have been resolved.

Records for non-expendable property acquired with funds under this Agreement shall be retained for six (6) years after final disposition of such property. All accounting records including supporting documents pertaining in whole or in part to the Agreement shall be readily accessible to **MHRC** upon written request. If **CONTRACTOR's** entity is dissolved, **MHRC** shall take into custody the original or authorized duplicates of documents described above.

VIII. INDEMNIFICATION

CONTRACTOR agrees to defend, indemnify and hold **MHRC** and **MPHA** and their officers, directors, employees, agents, successors and assigns harmless from any and all claims, actions, causes of action, suits, demands, judgements, damages, liability, costs or expenses, including but not limited to reasonable attorney's fees that are related to any action or inaction by **CONTRACTOR**, its agents, subcontractors, sub-consultants, delegates or employees arising out of or resulting from the **CONTRACTOR's** duties and obligations under this Agreement.

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Except as provided by Article IX, Insurance, **CONTRACTOR** is not obligated to protect, indemnify and save **MHRC** and **MPHA** and their officers, directors, employees, agents, successors and assigns harmless from and against liabilities, losses, damages, costs, expenses including attorney's fees, causes of action, suits, claims, demands and judgements arising from or by reason of the negligent or wrongful acts or omissions of **MHRC** or **MPHA** or their agents, employees or officers.

IX. INSURANCE

Prior to commencement of work, **CONTRACTOR** must furnish **MHRC** and **MPHA** with a Certificate of Insurance showing coverage in force throughout the term of this Agreement as described below. The insurance shall be in force on the date of execution of the Agreement and shall remain for the duration of the Agreement. Article IX shall survive the termination of this Agreement.

MHRC and MPHA must be listed as an "additional insured" under general and automobile liability, to defend and indemnify MHRC and MPHA from any claims arising out of or resulting from the operations of this Agreement regardless of whether MHRC/MPHA or CONTRACTOR is at fault. Each such policy of insurance shall provide for 30 days advance written notice to MHRC and MPHA prior to the effective date of any cancellation.

The cost of the insurance required to be obtained by the **CONTRACTOR** and any of its Subcontractors shall be the sole responsibility of the **CONTRACTOR** or Subcontractor and shall not be reimbursable unless otherwise specifically set forth in this Agreement.

CONTRACTOR shall pay for the policies of insurance including all deductibles and any retention costs which shall provide protection against claims arising out of or resulting from the operations of this Agreement regardless of whether **MHRC/MPHA** or **CONTRACTOR** is at fault. The insurance shall provide the minimum coverage and limits specified below:

- 1) **WORKER'S COMPENSATION** in accordance with Minnesota Worker's Compensation laws for all of **CONTRACTOR's** employees engaged under this Agreement and Coverage B with policy limits of \$100,000 per accident.
- 2) **COMMERCIAL GENERAL LIABILITY** providing comprehensive general liability, bodily injury and property damage coverage with minimum limits of \$1,000,000 per occurrence. The policy shall cover all claims arising out of or resulting from the operations of this Agreement regardless of whether **MHRC/MPHA** or **CONTRACTOR** is at fault.

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- 3). **AUTOMOBILE LIABILITY** on owned, non-owned and hired motor vehicles used on or in connection with work under this Agreement for a combined minimum limit for bodily injury and property damage of \$1,000,000 per occurrence.

- 4). **PROFESSIONAL LIABILITY** – Professional Liability Coverage for negligent acts, errors or omissions arising out of the performance of professional services included in this Agreement in the minimum limit of liability of \$1,000,000 per claim. Deductible not to exceed \$5,000.

X. TERMINATION OF AGREEMENT

MHRC may terminate this Agreement at any time for cause by giving written notice of its intent to terminate at least 60 calendar days prior to the effective date of the termination. Cause shall include, but is not be limited to, the breach of any covenant, term or provision and the failure to timely do or complete any duty or obligation under this Agreement.

In such event, **CONTRACTOR** shall remove **CONTRACTOR**'s equipment and restore premises to same condition as at the start of the Agreement within 10 days of the written notice. Before any machines are removed, **CONTRACTOR** shall notify **MHRC** and any coins in the machines shall be removed and accounted for by **MHRC** before the machines are taken from the premises.

CONTRACTOR shall not be relieved of liability to **MHRC** for damages sustained by **MHRC**. No remedy available to **MHRC** provided by this Agreement, law, regulations or equity shall be exclusive of any other remedy. All remedies shall be cumulative and may be exercised at **MHRC**'s sole discretion.

XI. CHANGES

MHRC may request changes in the Scope of Services or other changes. All changes shall be incorporated by written amendment to this Agreement, signed by the parties.

If the number of machines noted in Attachment #1, Appendix A of this Agreement is found to be more or less than needed, the number may be changed only upon written consent of **MHRC** and shall be changed only upon written request of **MHRC**.

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XII. NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Executive Orders 11246 and 11375 and Minneapolis Civil Rights Ordinance Title 7, Ch. 139, 141 and 142, the **CONTRACTOR** will not discriminate or retaliate against any employee, applicant for employment or other person because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, public assistance status or veteran status. **CONTRACTOR** shall take affirmative action to ensure that employment applicants and employees are treated fairly without regard to their race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, public assistance status or veteran status. Actions include, but not be limited to employment, promotion, demotion or transfer, recruitment, recruitment advertising, layoff, termination, rates of pay, forms of compensation, selection for training and apprenticeship. **CONTRACTOR** shall post non-discrimination notices provided by **MHRC** in conspicuous places for employees and employment applicants.

In all solicitations or advertisements for employees, agents and subcontractors, **CONTRACTOR** shall state that qualified applicants shall receive consideration for employment without regard to their affectional preference, disability, age, marital status, public assistance status or veteran status and comply with Minneapolis Code 139, Supp. 1976. **CONTRACTOR** agrees to abide by the provisions of 41-CFR 60-741.1, 60-250.4, 60-2.1, 60-4.3. All documents and materials produced by the **CONTRACTOR** shall include proper Equal Opportunity Housing Logotypes and information as required by the U.S. Department of Housing and Urban Development (HUD). **CONTRACTOR** agrees to comply, in writing, with all applicable Equal Opportunity and Affirmative Action laws, regulations and ordinances.

XIII. SECTION 3 CLAUSE, 24 CFR §135

All contractors/vendors awarded a contract for any dollar amount with **MHRC** must be in compliance with Section 3. All businesses must be certified as a Section 3 business prior to submission of a bid or proposal in order to benefit from the Section 3 preferences. The U.S. Department of Housing and Urban Development (HUD) Regulations require all Section 3 covered contracts include 24 CFR §135, the Section 3 Clause, as follows:

- A. The work to be performed under this contract is project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and 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 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project and contracts for work in

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connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- C. The contractor will send to each labor organization or representative of workers with which s/he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135, the contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of this regulation.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided and to such sanctions as are specified by 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.

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- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Action (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).

XIV. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR shall comply with all applicable codes, regulations, laws, directives and ordinances of the Federal, State and local governments or other applicable codes.

XV. ASSIGNABILITY

CONTRACTOR shall not assign any interest or transfer any interest whether by assignment or novation under this Agreement without the prior written approval of **MHRC**.

XVI. INTEREST OF MEMBERS OF MHRC

None of **MHRC's** or **MPHA's** officers, employees, members of its governing body or agents who exercise any function or responsibility under this Agreement shall have any direct or indirect interest under this Agreement.

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XVII. MINNESOTA GOVERNMENT DATA PRACTICES ACT

CONTRACTOR providing services under this Agreement may have access to information or data that is classified as not or non-public under the Minnesota Government Data Practices Act and applicable Federal law. **CONTRACTOR** must maintain the confidential nature of any data or information received under this Agreement. The unauthorized disclosure of not or non-public data or information is subject to civil and criminal penalties under the Minnesota Government Data Practices Act and Federal law.

Any person performing services under this Agreement and having access to information or data that is classified as not or non-public under the Minnesota Government Data Practices Act and Federal law shall sign and return an original "Data Privacy Statement" with this Agreement.

XVIII. OWNERSHIP AND USE OF DOCUMENTS

All documents, materials, data and records generated as a result of this Agreement shall remain the property of **MHRC** whether the project is completed or not. **CONTRACTOR** may retain reproducible copies of any material classified as "public" for information and reference. If this Agreement results in any material to be copyrighted, the author may copyright the work that is classified as "public". However, the Federal Grantor Agency will have the right to the royalty-free, not exclusive and irrevocable license to reproduce, publish, use and authorize others to use the work for government purposes.

XIX. AUDITS AND INSPECTIONS

As often as **MHRC** deems necessary and during business hours, **MHRC**, or the Government shall audit, examine, make excerpts or transcripts of, or reproduce all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other records relating to any matter under this Agreement.

Any deficiencies in audit reports within thirty (30) days after the **CONTRACTOR** receives the audit report shall be cleared by the **CONTRACTOR** and with the consent of **MHRC**. **CONTRACTOR's** failure to comply with the audit requirements shall be a violation of this Agreement and may result in termination of this Agreement for cause.

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XX. OFFICIAL NOT TO BENEFIT

No members of or delegate to the United States Congress and no resident MPHA commissioner shall have a share, interest or benefit under this Agreement.

XXI. NOTICES

A notice, demand or other communication under this Agreement between the parties shall be delivered personally or by registered or certified mail, postage prepaid and return receipt requested to:

- 1). CONTRACTOR's personal representative at:

*BDS Laundry Systems
2430 Enterprise Drive
St. Paul, MN 55120-1143*

Attention: David DeMarsh, President

and;

- 2). MHRC's representative at:

*Minneapolis Highrise Representative Council
1627 South 6th Street
Minneapolis, MN 55454*

Attention: Barb Harris, Executive Director

Either party may designate, in writing, a change of address or representative by complying with the delivery requirements under this section.

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XXII. REPRESENTATION AND WARRANTIES

A. CONTRACTOR's Representations and Warranties

CONTRACTOR represents and warrants to **MHRC** that it is now and will be throughout the term of this Agreement, a corporation, duly organized and existing in good standing under the laws of the State of Minnesota. **CONTRACTOR** further represents and warrants that it has all the requisite power and authority to enter into this Agreement and perform the obligations and duties under this Agreement. The execution, delivery and performance of this Agreement by the **CONTRACTOR**, is and will be throughout the term of this Agreement, duly authorized and approved by the **CONTRACTOR**. This Agreement constitutes a valid and binding obligation of **CONTRACTOR**.

B. MHRC's Representations and Warranties

MHRC represents and warrants to **CONTRACTOR** that it is now and shall remain throughout the Term of this Agreement, a body politic and corporate, duly created, organized and existing under the local law and ordinance. **MHRC** further represents and warrants that it has all requisite power and authority to enter into this Agreement and to perform the obligations and duties. The execution, delivery and performance of this Agreement by **MHRC** is and will continue to be throughout the Term of this Agreement, duly authorized and approved by **MHRC's** Board of Directors. This Agreement constitutes a valid and binding obligation of **MHRC** in accordance with its terms.

XXIII. GENERAL PROVISIONS

A. Waiver

The failure of either party to insist upon the other party's strict performance of the covenants, conditions or respective obligations and duties or to exercise any option, remedy or right under this Agreement shall not operate as a waiver of the party's rights in the future to demand strict performance of any covenant, term or condition or to exercise any option, remedy or right under this Agreement or by law or equity, all of which shall remain in full force and effect. A party's waiver of a covenant, term or condition of this Agreement shall not be a waiver of a subsequent breach of the same covenant, term or condition. A party's required consent or approval to the act of the other party shall not be a waiver of the waiving party's consent or approval to a subsequent or similar act. A party shall not waive the breach of a covenant, term or condition of this Agreement until the waiving party signs and designates the waiver in writing.

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B. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Each party agrees that any suit or action brought under this Agreement shall be venued in a court of competent jurisdiction located in the City of Minneapolis, County of Hennepin and State of Minnesota.

C. Entire Agreement

This Agreement contains the entire understanding between the parties and supercedes any prior understanding and/or agreement regarding the subject matter of this Agreement. Any amendments to this Agreement must be in writing and signed by the parties.

D. Time is of the Essence

Both parties acknowledge and agree that time is of the essence in this Agreement.

E. Agreement Binding

This Agreement shall be binding upon and shall inure to the benefits of the parties' respective heirs, executors, administrators, successors and assigns.

F. Titles and Captions

All section titles or captions contained in this Agreement are for convenience and shall not be deemed part of the context nor affecting interpretation of this Agreement.

G. Conflict of Terms

This Agreement includes the documents listed below. In any conflict between or among the terms of the Agreement or Agreement Documents, the terms set forth in each document shall control in the following order:

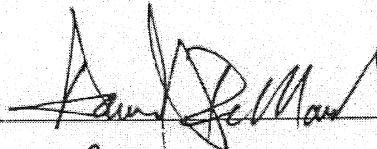
- 1) Agreement
- 2) Instructions to Offerors, HUD Form 5369-B
- 3) Contract Provisions Required by Federal Law, HUD Form 51915-A
- 4) General Contract Conditions, Non-Construction, HUD Form 5370-C
- 5) Request for Proposal (RFP)
- 6) Contractor's Response

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IN WITNESS WHEREOF, MHRC and CONTRACTOR have executed this Agreement effective as of the date MHRC's Executive Director signs this Agreement.

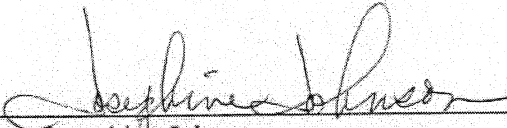
BDS LAUNDRY SYSTEM

DATE: 11-7-02


By: 
Its: President

MINNEAPOLIS HIGHRISE REPRESENTATIVE COUNCIL

DATE: 12-02-02

By: 
Josephine Johnson
Its: President

DATE: 12/3/02

By: 
Barb Harris
Its: Executive Director