SOLICITATION #: 2018-3018

PROJECT MANUAL

PARK EDEN – INTERIOR LIGHTING REPLACEMENT
2610 PARK AVE - CINCINNATI, OH 45206

OWNED BY:

CINCINNATI METROPOLITAN HOUSING AUTHORITY
1627 WESTERN AVENUE - CINCINNATI, OH 45214

GREGORY D. JOHNSON, MS, PHM, EDEP
CHIEF EXECUTIVE OFFICER
*** * * * * * * * * * * * * * * * ***

Date: February 4, 2019

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INVITATION FOR BID
SOLICITATION NUMBER 2018-3018

On **Monday, March, 11 2019**, at **10 a.m.**, the Cincinnati Metropolitan Housing Authority (CMHA) will receive, open and read aloud all bids on the project heretofore described as:

Project Name: PARK EDEN – INTERIOR LIGHTING REPLACEMENT

Contact: All questions concerning this solicitation are to be directed in writing to Janell Duncan via email at janell.duncan@cintimha.com. Responses to questions received prior to 4:00pm (local time) on March 4, 2019 will be posted as an addendum to the CMHA website at http://www.cintimha.com/business-opportunities. It is the responsibility of all bidders to monitor the website and review all addenda posted associated with this bid. Responses for questions received after this date and time will be posted at CMHA's discretion.

Proposals shall be delivered to: Cincinnati Metropolitan Housing Authority
1627 Western Ave
Cincinnati, Ohio 45214

This project is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. Preference may be given in accordance with 24 CFR 135 and the CMHA procurement policy.

On **Monday, February 11, 2019**, bidders may purchase the project manual from **ARC Document Solutions, 7157 Kemper Road Cincinnati, Ohio 45242** for a non-refundable fee (cash, Visa, personal check or money order). The project manual must be ordered in advance from ARC Document Solutions by calling **(513) 326-2300.** For a list of plan holders, go to www.e-arc.com**.** You may review a set of documents at no charge, at the CMHA, 1627 Western Avenue, Cincinnati, Ohio 45214, Phone: (513) 333-0670 during the hours of 9:00 a.m.- 4:00 p.m., Monday thru Friday or download nonscale copies from the CMHA website https://cintimha.com/business-opportunities/resources/current-solicitations/

There will be an optional **pre-bid walk through on Tuesday February 26, 2019 at 9:30 a.m.** Meet at 2610 PARK AVE - CINCINNATI, OH 45206

CINCINNATI METROPOLITAN HOUSING AUTHORITY
Gregory D. Johnson, MS, PHM, EDEP, Chief Executive Officer

Advertisement Dates: Wednesday, February 13 and Monday February 18, 2019

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U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Instructions to Bidders for Contracts Public and Indian Housing Programs

Instructions to Bidders for Contracts

Public and Indian Housing Programs

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1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the *General Conditions of the Contract for Construction*). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

(h) If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

3. Amendments to Invitations for Bids

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

(c) Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

(1) Integrity;

(2) Compliance with public policy;

(3) Record of past performance; and

(4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

(e) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

(f) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful bid that makes its terms more favorable to the PHA/IHA will be considered at any time it is received and may be accepted.

(g) Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

(c) All protests shall be resolved in accordance with the PHA's/IHA's protest policy and procedures, copies of which are maintained at the PHA/IHA.

8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA's/IHA's available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA's/IHA's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA's/IHA's available funding. If upon the application of all deductibles, no bid is within the PHA's/IHA's available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the PHA's/IHA's written policy and procedures.

(d) The PHA/IHA may reject any and all bids, accept other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA's/IHA's written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

(f) The PHA/IHA may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

9. Bid Guarantee (applicable to construction and equipment contracts exceeding $25,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

10. Assurance of Completion

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

[ ] (1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

[ ] (2) separate performance and payment bonds, each for 50 percent or more of the contract price;

[ ] (3) a 20 percent cash escrow;

[ ] (4) a 25 percent irrevocable letter of credit; or,

[ ] (5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website **http://www.fms.treas.gov/c570/index.html**, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

11. Preconstruction Conference (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

12. Indian Preference Requirements (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act; and Indian "tribe" to mean any Indian tribe, band, group, pueblo, or community including Native villages and Native groups (including

corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

(c) If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph (c) above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is -

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement describing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

(k) The IHA [ ] does [ ] does not [Contracting Officer check applicable box] maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.

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SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

These conditions are a supplement to the HUD 5369 Instructions to Bidders and provide information to help clarify articles of that document. Any articles or paragraphs not specifically mentioned shall remain as printed in HUD 5369 without change.

1. Add to Paragraph 1, subparagraph b:

   i. The bid documents required for the complete bid package shall consist of the following (all shall be signed originals):

      1. Bid Form
      2. Bid Bond
      3. Non Collusive Affidavit
      4. HUD Form 2530
      5. Disclosure of Lobbying Activities
      6. HUD 5369A
      7. MBE Forms
      8. Section 3 Forms
      9. Contract
      10. Wage Decision Form

2. Add to paragraph 2 subparagraph a

   a. All questions are to be received in writing. Oral questions will not be accepted. Oral clarifications will not be provided.
   b. Responses to all written questions will be posted as addendum on the CMHA website at www.cintimha.com.

3. Add to paragraph 4 subparagraph b.1.

   b.1 Bidders shall indicate receipt of addendum on Bid Form. No other acknowledgement is required.

4. Add to paragraph 4,subparagraph a:

   a. Ability to demonstrate a minimum of 7 years experience as a general contractor, performing work of like scope and material, for the period immediately preceding commencement of this CMHA Project for work of the size and type of this CMHA Project.

      CMHA, in its sole and absolute discretion, will consider a request for a waiver of the 7 year experience requirement, if the contractor can establish that it has successfully undertaken and completed such a number of projects of similar scope and complexity in a lesser number of years so as to confer upon that contractor the same or more experience as other bidders have achieved in 7 or more years of experience.

5. Add to paragraph 5, subparagraph g:

   g. No bid shall be withdrawn for a time period of ninety (90) calendar days from the bid opening. The foregoing limitation upon withdrawal of bids prior to opening

shall be subject to the right of withdrawal of a bid made in error as provided by Section 9.31, Ohio Revised Code, to the extent that such statutory provision is applicable.

6. Add to paragraph 10, subparagraphs a, and b:

   a. All bid bonds be a shall be issued by Surety Companies licensed to issue bonds in the State of Ohio and listed in Federal Register Circular #570. The current power of attorney for the person who signs for any surety company shall be attached to such bid bond.

   b. The CMHA will have the right to retain the bid security of bidders to whom an award is being considered until either (a) the contract has been executed and bonds, if required, have been executed, (b) the specified time has elapsed so that bids may be withdrawn, or (c) all bids have been rejected.

7. Add paragraph 13. Minority Business Enterprise:

   It is the goal of CMHA to obtain 20 percent minority business participation on this project.

8. Add paragraph 14. Lead Based Paint:

   Any contractor awarded a contract for modernization shall comply with 24 CFR (Code of Federal Regulations) Part 35 prohibiting the use of lead based paint.

9. Add paragraph 15. Sales Tax Exemption:

   The contractor shall take whatever steps required by law to relieve the owner from payment of excise tax and Ohio sales tax on materials, specialties and equipment for contractor to take any part of such action shall constitute the responsibility of the contractor to make such tax payments as within the scope of this contract. The owner is tax exempt, and upon request will provide a statement to that effect.

10. Add paragraph 16. Liquidated Damages

    This project has liquidated damages, as specified in Clause 33 of HUD General Conditions in this contract, which may be charged against contractors who do not complete work on time.

11. Add paragraph 17. Pre-Bid Conference

    A pre-bid conference for all prospective contractors will be held as indicated on the Invitation of Bids. Questions will not be received or answered at the pre-bid conference. All questions are to be submitted in writing and responses will be posted as addendum to the CMHA website at www.cintimha.com.

    Before presenting a bid, the contractor is advised to have visited the site and be thoroughly familiar with the scope of work and the conditions under which it will be executed. Failure to do so will not release contractor of his obligation to furnish all material and labor necessary to carry out all provisions of the contract.

12. Add paragraph 18. Definitions

Addenda are written or graphic instruments issued by the CMHA prior to the execution of the Contract, which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

A Bid is a complete and properly signed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be in Alternate Bids.

An Alternate Bid or Alternate is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted. Any alternates accepted by the owner shall be accepted in the order in which they are listed in the form of Bid.

A Unit Price is an amount stated in the Bid as a price per unit of measure for materials, equipment or services or a portion of the Work as described in the Bidding Documents, and to be utilized at CMHA's sole discretion.

13. Add paragraph 19. Form and Style of Bids

a). Bids shall be submitted on the form included in the Bidding Documents. b).

All blanks on the Bid Form shall be filled in by typewriter or manually in ink.

c). Where so indicated by the makeup of the Bid Form, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount written in words shall govern.

d). The signer of the Bid must initial interlineations, alterations and erasures.

e). All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change."

f). Each copy of the Bid shall include the legal name of the Bidder and a statement that the Bidder is a sole proprietor, partnership, corporation or other legal entity. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

END OF SECTION

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U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

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1. Certificate of Independent Price Determination

(a) The bidder certifies that--

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

(b) Each signature on the bid is considered to be a certification by the signatory that the signatory--

(1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(l) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(l) through (a)(3) above.

_____ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[ ] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding $50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [ ] is, [ ] is not included with the bid.

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

(b) The bidder represents and certifies as part of its bid that, except for full-time bona fide employees working solely for the bidder, the bidder:

(1) [ ] has, [ ] has not employed or retained any person or company to solicit or obtain this contract; and

(2) [ ] has, [ ] has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(c) If the answer to either (a)(1) or (a)(2) above is affirmative, the bidder shall make an immediate and full written disclosure to the PHA/IHA Contracting Officer.

(d) Any misrepresentation by the bidder shall give the PHA/IHA the right to (1) terminate the contract; (2) at its discretion, deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding $100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of $100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

(a) Result in an unfair competitive advantage to the bidder; or,

(b) Impair the bidder's objectivity in performing the contract work.

[ ] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

7. Small, Minority, Women-Owned Business Concern Representation

The bidder represents and certifies as part of its bid/ offer that it --

(a) [ ] is, [ ] is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) [ ] is, [ ] is not a women-owned business enterprise. "Women-owned business enterprise," as used in this provision, means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) [ ] is, [ ] is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

[ ] Black Americans	[ ] Asian Pacific Americans
[ ] Hispanic Americans	[ ] Asian Indian Americans
[ ] Native Americans	[ ] Hasidic Jewish Americans

8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [ ] is, [ ] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [ ] is, [ ] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

9. Certification of Eligibility Under the Davis-Bacon Act (applicable to construction contracts exceeding $2,000)

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

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

10. Certification of Nonsegregated Facilities (applicable to contracts exceeding $10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed $10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

11. Clean Air and Water Certification (applicable to contracts exceeding $100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [ ] is, [ ] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

12. Previous Participation Certificate (applicable to construction and equipment contracts exceeding $50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate"

[ ] is, [ ] is not included with the bid.

13. Bidder's Signature

The bidder hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

_____
(Signature and Date)

_____
(Typed or Printed Name)

_____
(Title)

_____
(Company Name)

(Company Address)

BID FORM - SOLICITATION # 2018-3018

PARK EDEN – INTERIOR LIGHTING REPLACEMENT

TO THE CINCINNATI METROPOLITAN HOUSING AUTHORITY (CMHA)

1. In submitting this bid, it is understood that the right is reserved by the Cincinnati Metropolitan Housing Authority to reject any and all bids. If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within 90 days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bond and insurance certifications no later than 10 days after the "Notice of Intent".

2. Security in the sum of _____Dollars ($_____) in the form of _____ is submitted herewith in accordance with the Specifications.

3. Attached hereto is an affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this bid or any other bid or the submitting of bids for the contract for which this bid is submitted. Also attached is a completed Form HUD-5369-A, Representations, Certifications, and Other Statements of Bidders.

4. Work under this Contract will begin immediately upon the successful Contractor's receipt of a "Notice to Proceed" from CMHA. The "Notice to Proceed" will follow the completion of an executed contract.

5. **ADDENDA**

Bidder acknowledges receipt of the following Addenda:

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

6. BASIS OF CONTRACT AWARD

CMHA intends to award this contract for **Solicitation No. 2018-3018** entitled **"PARK EDEN - INTERIOR LIGHTING REPLACEMENT",** to the responsible bidder submitting the LOWEST "TOTAL BID" complying with these Public Bid Specifications, Drawings and Addenda, if any, provided the Contractor's, bid is reasonable and it is in the best interest of CMHA to accept it. The LOWEST

"TOTAL BID" will be the bid reflecting the lowest dollar amount in the "TOTAL BID".

The undersigned having familiarized themselves with the local conditions affecting the cost of the work, and with the Drawings and Specifications, issued and Addenda, if any thereto, as prepared by the Development Division of the Cincinnati Metropolitan housing Authority, propose to furnish all labor, materials, equipment, permits and services required to complete the work identified herein at the prices listed below.

7. CONTRACT TIME

The contract performance period from the "Notice to Proceed" until substantial completion, will be 90 calendar days.

8. Unit Costs

Unit costs shall be inclusive of materials, labor, overhead and profit. The unit prices offered will be used to increase or decrease the Total Contract Amount based on the existing conditions determined by the Owner at the time of construction of any given building. No unit prices may be used without the written permission of the Owner. CMHA has the right to reject any bid, which indicates an unbalanced bid or prices not realistic for the work.

Item Description	(U) # Units	(M) Material	(L) Labor	(M+L) Unit Cost	U * (M+L) Total Cost
2 LED strips - 4 ft fluorescent retrofit kit	220				
2 x 4 LED Flat Panel	100				
2 x 2 LED Flat Panel	15				
Flush mount 17" - 3 bulb kitchen fixture	200				
Flush mount 13" - 2 bulb fixture	550				
Closet light - 1 bulb fixture	15				
LED Bulb	5				
				Total Bid Amount	

* In case of a math error, the value entered for M and L will take precedence.

The base bid is to include all work indicated in the Project Manual, Drawings and Addendums

Base Bid $_____
(Figure)

_____ DOLLARS.
(Words)

NOTE: The Total Bid Amount shall be shown in both words and figures; in case of discrepancy, the amount in words shall govern. To be valid bid, the bid form must be filled out in it's entirety with all certifications and affidavits. It must be submitted with and is part of the Bid Documents.

The penalty for making false statements in any offer is prescribed in 19 U.S.C. 1001.

Date:_____20_____

Company: _____ Address:_____

By: _____ City, State, Zip _____

Title:_____ Fed. Tax ID:_____
(Signature of Bidder)

BID BOND

KNOWN ALL MEN BY THESE PRESENTS, that we:

_____
(Insert full name and address or legal title of Contractor)

as Principal, hereinafter called the Principle, and:

_____
(Insert full name and address or legal title of Surety)

a corporation duly organized under the laws of the State of:

_____ as Surety, hereinafter called the

Surety, are held and firmly bound unto:

_____
(Insert full name and address or legal title of Owner)

hereinafter called the Obligee, in the sum of:

_____ DOLLARS
(In Words)

$_____

for payment of which sum, well and truly to be made, we hereby jointly bind ourselves, our heirs, executors, administrators, successors and assigns. The CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the Principal has submitted the accompanying bid, dated:

_____20_____ for _____

_____

_____

NOW, THEREFORE, if the Obligee shall accept the Bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such Bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the

failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference between the amount specified in said Bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bond, then this obligation shall be null and void, otherwise to remain in full force and effect.

SIGNED SEALED AND DATED THIS _____DAY OF_____, 20_____

_____ _____
WITNESS PRINCIPAL

BY_____

_____
SURETY

BY_____

Note: In lieu of such bond, the Bidder shall include with his proposal, a Certified Check, Bank Draft, or U.S. Government Bond at par value, payable to the Obligee.

Certified Check for_____

DOLLARS - ON _____BANK OF _____

_____DEPOSITED HEREWITH

_____
BIDDER

BY_____

_____
TITLE

NON COLLUSIVE AFFIDAVIT

State of _____)

ss

County of _____)

_____, being first sworn, deposes:

and says that he is _____ of _____
(sole owner, partner, etc.) (Firm Name)

the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that aspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly, or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, to secure any advantage against the Cincinnati Metropolitan Housing Authority or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Signature of Bidder: _____
(If Individual)

Signature of Bidder: _____
(If Partnership)

Signature of Bidder: _____
(If Corporation)

Subscribed and sworn to before me this ____ day of _____, 20____

_____, My commission expires_____, 20_____
Notary Public

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DISCLOSURE OF LOBBYING ACTIVITIES

Certification for Contracts, Grants, Loans and Cooperative Agreements

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

3. 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.

Executed this _____ date of _____, 20_____.

By _____
(signature)

_____
(type or print name)

_____
(title, if any)

Covered Action: _____
(type and identify program, project or activity)

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Previous Participation Certification

U.S. Department of Housing And Urban Development
Office of Housing /Federal Housing Commissioner

U.S. Department of Agriculture
Farmers Home Administration

OMB Approval No. 2502-0118
(exp 11/30/2012)

Part I To be completed by Principals of Multifamily Projects. See Instructions
Reason for Submitting Certification

For HUD HQ/FmHA use only

1. Agency Nam e and City where the application is filed	2. Project Name, Project Number. City and Zip Code contained in the application

3. Loan or Contract Amount	4. Number of Units or Beds	5. Section of Act	6. Type of Project (check one) ☐ Existing ☐ Rehabilitation ☐ Proposed (New)

List of all proposed Principal Participants and attach organization chart for all organizations. **7.** Names and addresses of All Known Principals and Affiliates (people, business & organizations) proposing to participate in the project described above. (list names alphabetically; last, first, middle initial)	8. Role of Each Principal in Project	9. Expected % Owner Ship Interest in Project	10. Social Security or IRS Employer Number

Certifications: I (meaning the individual who signs as well as the corporations, partnerships or other parties listed above who certify) hereby apply to HUD or USDA FmHA, as the case maybe, for approval to participate as a principal in the role and project listed above based upon my following previous participation record and this Certification. Verify that neither you n any of your principals or affiliates have ever been fou to be in noncompliance with any applicable fair housi and civil rights requirements in 24 CFR 5.105 (a). If you or any of your principals or affiliates have been found to be in noncompliance with any such requirements, attach a signed statement explaining the relevant facts, circumstances, and resolution, if any. I certify that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and Exhibits signed by me ar attached to this form. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. I further certify that:

Schedule A contains a listing of every assisted or insured project of HUD, USDA FmHA and State and local government housing finance agencies in which I have been or am now a principal.

2. For the period beginning 10 years prior to the date of this certification, and except as shown by me on the certification.

a. No mortgage on a project listed by me has ever been in default, assigned to the Government or foreclosed, nor has mortgage relief by the mortgagee been given;

b. I have not experienced defaults or noncompliances under any Conventional Contract or Turnkey Contract of Sale in connection with a public housing project;

c. To the best of my knowledge, there are no unresolved findings raised as a result of HUD audits, management reviews or other Governmental investigations concerning me or my projects;

d. There has not been a suspension or termination of payments under any HUD assistance contract in which I have had a legal or beneficial interest;

e. I have not been convicted of a felony and am not presently, to my knowledge, the subject of complaint or indictment charging a felony. (A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by imprisonment of two years or less);

f. I have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency.

g. I have not defaulted on an obligation covered by a surety or performance bond and have not been the subject of a claim under an employee fidelity bond.

3. All the names of the parties, known to me to be principals in this project(s) in which I propose to participate, are listed above.

4. I am not a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined in Standards of Ethical Conduct_Ior Employees of the Executive Branch in 5C.F.R. Part 2635 (57 FR 35006) and HUD's Standard of Conduct in 24 C.F.R. Part _ and USDA's Standard of Conduct in 7 C.F.R. Part _ Subpart B.

5. I am not a principal participant in an assisted or insured project as of this date on which construction has stopped for a period in excess of_20 days or which has been substantially completed for more than 90 days and documents for closing, including final cost certification have not been filed with HUD or FmHA

6. To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any applicable fair housing and civil rights requirements in 24 CFR 5.10_(a).

7. I am not a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.

8. Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances which I think helps to qualify me as a responsible principal for participation in this project.

Typed or Printed Name of Principal	Signature of Principal	Certification Date (mm/dd/yyyy)	Area Code and Telephone No.
This form was prepared by (Please print name)		Area Code and Telephone No.	

Schedule A: List of Previous Projects and Section 8 Contracts. By my name below is the complete list of my previous projects and my participation history as a principal; in Multifamily Housing programs of HUD/FmHA, State, and Local Housing Finance Agencies. **Note:** Read and follow the instruction sheet carefully. Abbreviate where possible. Make full disclosure. Add extra sheets if you need more space. Double check for accuracy. If you have no previous projects write, by your name, "**No previous participation, First Experience.**"

1. List each Principal's Name (list in alphabetical order, last name first)	2. List Previous Projects (give the I.D. number, project name, city location, & government agency involved if other than HUD)	3. List Principals' Role(s) (indicate dates participated, and if fee or identity of interest participant)	4. Status of Loan (current, defaulted, assigned, or foreclosed)	5. Was Project ever in Default, during your participation?			6. Last Mgmt. and/or Physical Inspctn R ating and Date
				Yes	No	If "Yes," explain	

Part II – For HUD Internal Processing Only

Received and checked by me for accuracy and completeness; recommend approval or transferral to Headquarters as checked below:

Date (mm/dd/yyyy)	Telephone Number and Area Code	☐ A. No adverse information	☐ C. Disclosure or Certification problem
Staff	Processing and Control	☐ B. Name match in System	☐ D. Other, our memorandum is attached

Supervisor	Director of Housing/Director, Mulitfamily Division	Approved ☐Yes ☐No	Date (mm/dd/yyyy)

Instructions for Completing the Previous Participation Certificate, form HUD-2530

Carefully read these instructions and the applicable regulations. A copy of those regulations published at 24 C.F.R. 200.210 to 200.245 can be obtained from the Multifamily Housing Representative at any HUD Office. Type or print neatly in ink when filling out this form. Mark answers in all blocks of the form. If the form is not filled completely, it will delay approval of your application.

Attach extra sheets as you need them. Be sure to indicate "Continued on Attachments" wherever appropriate. Sign each additional page that you attach if it refers to you or your record. If you have many projects to list (20 or more) and expect to be applying frequently for participation in HUD projects, you should consider filing a Master List. See Master List instructions below under "Instructions for Completing Schedule A."

Carefully read the certification before you sign it. Any questions regarding the form or how to complete it can be answered by your HUD Office Multifamily Housing Representative.

Purpose: This form provides HUD with a certified report of all previous participation in HUD multifamily housing projects by those parties making application. The information requested in this form is used by HUD to determine if you meet the standards established to ensure that all principal participants in HUD projects will honor their legal, financial and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency. HUD requires that you certify your record of previous participation in HUD/USDA-FmHA, State and Local Housing Finance Agency projects by completing and signing this form, before your project application or participation can be approved.

HUD approval of your certification is a necessary precondition for your participation in the project and in the capacity that you propose. If you do not file this certification, do not furnish the information requested accurately, or do not meet established standards, HUD will not approve your certification.

Note that approval of your certification does not obligate HUD to approve your project application, and it does not satisfy all other HUD program requirements relative to your qualifications.

Who Must Sign and File Form HUD-2530:

Form HUD-2530 must be completed and signed by all parties applying to become principal participants in HUD multifamily housing projects, including those who have no previous participation. The form must be signed and filed by all principals and their affiliates who propose participating in the HUD project. Use a separate form for each role in the project unless there is an identity of interest.

Principals include all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations, any other public or private entity, that will participate in the proposed project as a sponsor, owner, prime contractor, turnkey developer, managing agent, nursing home administrator or operator, packager, or consultant. Architects and attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals by HUD.

In the case of partnerships, all general partners regardless of their percentage interest and limited partners having a 25 percent or more interest in the partnership are considered principals. In the case of public or private corporations or governmental entities, principals include the president, vice president, secretary, treasurer and all other executive officers who are directly responsible to the board of directors, or any equivalent governing body, as well as all directors and each stockholder having a 10 percent or more interest in the corporation.

Affiliates are defined as any person or business concern that directly or indirectly controls the policy of a principal or has the power to do so. A holding or parent corporation would be an example of an affiliate if one of its subsidiaries is a principal.

Exception for Corporations – All principals and affiliates must personally sign the certificate except in the following situation. When a corporation is a principal, all of its officers, directors, trustees and stockholders with 10 percent or more of the common (voting) stock need not sign personally if they all have the same record to report. The officer who is authorized to sign for the corporation or agency will list the names and title of those who elect not to sign. However, any person who has a record of participation in HUD projects that is separate from that of his or her organization must report that activity on this form and sign his or her name. The objective is **full** disclosure.

Exemptions – The names of the following parties do not need to be listed on form HUD-2530: Public Housing Agencies, tenants, owners of less than five condominium or cooperative units and all others whose interests were acquired by inheritance or court order.

Where and When Form HUD-2530 Must Be Filed: The original of this form must be submitted to the HUD Office where your project application will be processed at the same time you file your initial project application. This form must be filed with applications for projects, or when otherwise required in the situations listed below:

- Projects to be financed with mortgages insured under the National Housing Act (FHA).
- Projects to be financed according to Section 202 of the Housing Act of 1959 (Elderly and Handicapped).
- Projects in which 20 percent or more of the units are to receive a subsidy as described in 24 C.F.R. 200.213.
- Purchase of a project subject to a mortgage insured or held by the Secretary of HUD.
- Purchase of a Secretary-owned project.
- Proposed substitution or addition of a principal, or principal participation in a different capacity from that previously approved for the same project.
- Proposed acquisition by an existing limited partner of an additional interest in a project resulting in a total interest of 25 percent or more, or proposed acquisition by a corporate stockholder of an additional interest in a project resulting in a total interest of 10 percent or more.
- Projects with U.S.D.A., Farmers Home Administration, or with state or local government housing finance agencies that include rental assistance under Section 8 of the Housing Act of 1937. For projects of this type, form HUD-2530 should be filed with the appropriate applications directly to those agencies.

Review of Adverse Determination: If approval of your participation in a HUD project is denied, withheld, or conditionally granted on the basis of your record of previous participation, you will be notified by the HUD Office. You may request reconsideration by the HUD Review Committee. Alternatively, you may request a hearing before a Hearing Officer. Either request must be made in writing within 30 days from your receipt of the notice of determination.

If you do request re consideration by the Review Committee and the reconsideration results in an adverse determination, you may then request a hearing before a Hearing Officer. The Hearing Officer will issue a report to the Review Committee. You will be notified of the final ruling by certified mail.

Specific Line Instructions:

Reason for submitting this Certification: e.g., refinance, management, change in ownership, transfer of physical assets, etc.

Block 1: Fill in the name of the agency to which you are applying. For example: HUD Office, Farmers Home Administration District office, or the name of a State or local housing finance agency. Below that, fill in the name of the city where the office is located.

Block 2: Fill in the name of the project, such as "Greenwood Apts." If the name has not yet been selected, write "Name unknown." Below that, enter the HUD contract or project identification number, the Farmers Home Administration project number, or the State or local housing finance agency project or contract number. Include **all** project or contract identification numbers that are relevant to the project.Also enter the name of the city in which the project is located, and the ZIP Code of the site location.

Block 3: Fill in the dollar amount requested in the proposed mortgage, or the annual amount of rental assistance requested.

Block 4: Fill in the number of apartment units proposed, such as "40 units." For hospital projects or nursing homes, fill in the number of beds proposed, such as "100 beds."

Block 5: Fill in the section of the Housing Act under which the application is filed.

Block 7: Definitions of all those who are considered principals and affiliates are given above in the section titled "Who Must Sign and File...."

Block 8: Beside the name of each principal, fill in the role that each will perform. The following are possible roles that the principals may perform: Sponsor, Owner, Prime Contractor, Turnkey Developer, Managing Agent, Packager, Consultant, General Partner, Limited Partner (include percentage), Executive Officer, Director, Trustee, Major Stockholder, or Nursing Home Administrator. Beside the name of each affiliate, write the name of the person or firm of affiliation, such as "Affiliate of Smith Construction Co."

Block 9: Fill in the percentage of ownership in the proposed project that each principal is expected to have. Also specify if the participant is a general or limited partner. Beside the name of those parties who will not be owners, write "None."

Block 10: Fill in the Social Security Number or IRS employer number of every party listed, including affiliates.

Instructions for Completing Schedule A:

Be sure that Schedule A is filled-in completely, accurately and the certification is properly dated and signed, because it will serve as a legal record of your previous experience. All Multifamily Housing projects involving HUD/ FmHA, and State and local Housing Finance Agencies in which you have previously participated **must** be listed. Applicants are reminded that previous participation pertains to the individual principal within an entity as well as the entity itself. A newly formed company may not have previous participation, but the principals within the company may have had extensive participation and disclosure of that activity is required. To avoid duplication of disclosure, list the project and then the entities or individuals involved in that project. You may use the name or a number code to denote the entity or individual that participated. The number code can then be used in column 3 to denote role.

Column 2 List the project or contract identification of each previous project. **All previous projects must be included or your certification cannot be processed.** Include the name of all projects, the cities in which they are located and the government agency (HUD, USDA-FmHA or State or local housing finance agency) that was involved. At the end of your list of projects, draw a straight line across the page to separate your record of projects from that of others signing this form who have a different record to report.

Column 3 List the role(s) of your participation, dates participated, and if fee or identity of interest with owners.

Column 4 Indicate the current status of the loan. Except for current loans, the date associated with the status is required. Loans under a workout arrangement are considered assigned. An explanation of the circumstances surrounding the status is required for all non-current loans.

Column 5 Explain any project defaults during your participation.

Column 6 Enter the latest Management and/ or Physical Inspection Review rating. If either of the ratings are below average, the report issued by HUD is required to be submitted along with the applicant's explanation of the circumstances surrounding the rating.

No Previous Record: Even if you have never participated in a HUD project before, you must complete form HUD-2530. If you have no record of previous projects to list, fill in your name in column 1 of Schedule A, and write across the form by your name – "No previous participation, first experience."

Master List System: If you expect to file this form frequently and you have a long list of previous projects to report on Schedule A, you should consider filing a Master List. By doing so, you will avoid having to list all your previous projects each time you file a new application.

To make a Master List, use form HUD2530. On page 1, in block 1, enter (in capital letters) the words "**Master List**." In blocks 2 through 6 enter in "N.A." meaning Not Applicable. Complete blocks 7 through 10.

In the box below the statement of certification, fill in the names of all parties who wish to file a Master List together (type or print neatly). Beside each name, every party must sign the form. In the box titled "Proposed Role," fill in "N.A." Also, fill in the date you sign the form and provide a telephone number where you can be reached during the day. No determinations will be made on these certificates.

File one copy of the Master List with each HUD Office where you do business and mail one copy to the following address:

HUD-2530 Master List
Participation and Compliance
Division – Housing
U.S. Department of Housing and
Urban Development 451 Seventh
Street, S.W. Washington, D.C. 20410

Once you have filed a Master List, you do not need to complete Schedule A when you submit form HUD-2530. Instead, write the name of the participant in column 1 of Schedule A and beside that write "See Master List on file." Also give the date that appears on the Master List that you submitted. Below that, report all changes and additions that have occurred since that date. Be sure to include any mortgage defaults, assignments or foreclosures not listed previously.

If you have withdrawn from a project since the date the Master List was filed, be sure to name the project. Give the project identification number, the month and year your participation began and/or ended.

Certification:

After you have completed all other parts of form HUD-2530, including Schedule A, read the Certification carefully. In the box below the statement of certification, fill in the name of all principals and affiliates (type or print neatly). Beside the name of each principal and affiliate, each party must sign the form, with the exception in some cases of individuals associated with a corporation (see "Exception for Corporations" in the section of the instructions titled "Who Must Sign and File form HUD-2530"). Beside each signature, fill in the role of each party (the same as shown in block 8). In addition, each person who signs the form should fill in the date that he or she signs, as well as providing a telephone number where he or she can be reached during business hours. By providing a telephone number where you can be reached, you will help to prevent any possible delay caused by mailing and processing time in the event HUD has any questions.

If you cannot certify and sign the certification as it is printed because some statements do not correctly describe your record, use a pen and strike through those parts that differ with your record, then sign and certify to that remaining part which does describe you or your record.

Attach a signed letter, note or an explanation of the items you have struck out on the certification and report the facts of your correct record. Item A(2)(e) relates to felony convictions within the past 10 years. If you have been convicted of a felony within 10 years, strike out all of A(2)(e) on the certificate and attach your statement giving your explanation. A felony conviction will not necessarily cause your participation to be disapproved unless there is a criminal record or other evidence that your previous conduct or method of doing business has been such that your participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by law (42 U.S.C. 3535(d) and 24 C.F.R. 200.217) and by regulation at 24 CFR 200.210. This information is needed so that principals applying to participate in multifamily programs can become HUD-approved participants. The information you provide will enable HUD to evaluate your record with respect to established standards of performance, responsibility and eligibility. Without prior approval, a principal may not participate in a proposed or existing multifamily project. HUD uses this information to evaluate whether or not principals pose an unsatisfactory underwriting risk. The information is used to evaluate the potential principals and approve only individuals and organizations who will honor their legal, financial and contractual obligations.

Privacy Act Statement: The Housing and Community Development Act of 1987, 42 U.S.C. 3543 requires persons applying for a Federally-insured or guaranteed loan to furnish his/her Social Security Number (SSN). HUD must have your SSN for identification of your records. HUD may use your SSN for automated processing of your records and to make requests for information about you and your previous records with other public agencies and private sector sources. HUD may disclose certain information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law. You must provide all of the information requested in this application, including your SSN.

Public reporting burden for this collection of information is estimated to average 1 hour 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. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

A response is mandatory. Failure to provide any of the information will result in your disapproval for participation in this HUD program.

Minority Business Enterprise (MBE)
&
Women Business Enterprise (WBE)
Participation

Contract/P0#:_____Project Description:_____

The contractor agrees to make its best effort to expend at least 20% of the total dollar amount of the Contract on Minority Business Enterprises (MBE), an entity with at least 51% ownership interest by a minority in business), and at least 5% of the Contract to a Women Business Enterprises (WBE), an entity with a least 51% ownership interest by a woman in business. *Any questions regarding CMHA's MBE/WBE Program should be directed to Jacquetta Brown at 513-977-5683 or to Section3@cintimha.com.*

Using Best Efforts to Achieve MBE/WBE Goals: Prior to award of Contract, the Contractor will submit documents in support of its best efforts to achieve the above stated MBE/WBE participation. Best efforts may be established by documenting that the Contractor:

- Has made efforts to identify appropriate MBE/WBE contractors through community contacts or MBE and WBE associations
- Has contacted CMHA's Economic Inclusion Coordinator to help identify potential MBE/WBE companies appropriate for the project
- Has contacted and solicited bids/quotes from selected MBE/WBE companies

Notification of MBE/WBE Participation: Contractors agrees to promptly complete and return all required reports confirming MBE/WBE participation, including Proposed, Amended, and Final MBE/WBE Participation Forms. If requested by CMHA, Contractor agrees to submit proof of payment made to each MBE/WBE subcontractor listed on the MBE/WBE Participation Form (see attached).

Waiver of MBE/WBE Participation Goals: Request for complete or partial waiver of the contractor's MBE/WBE participation goals must be made in writing, stating all details in the request, the circumstances, and all relevant information. The request must be accompanied by a record of all efforts taken by the bidder/proposer to locate MBE/WBEs, solicit MBE/WBEs, seek assistance from CMHA's Economic Inclusion Coordinator, or seek help from other community/business resources or technical assistance agencies. CMHA will respond in writing to the Waiver Request within five (5) business days upon receipt.

Company Name_____

Contact Person _____

Signature_____Date_____

Contractor's MBE/WBE Participation Report Form

Contract/PO#:_____Project Description:_____

Please list below the names of all firmly committed MBE and WBE subcontractors that will work on the project, their MBE/WBE Status, the dollar amount, and the percentage of total contract amount that will be performed by the entities. The MBE/WBE participation can include subcontracts or purchases of services, materials and supplies directly related to the contract.

(Please check one) _____Proposed _____Amended _____Final

Name of Subcontractor(s)	MBE	WBE	$ Dollar Amount	% of Contract Amount
Total MBE Dollar Amount and Percentage of Contract Amount				
Total WBE Dollar Amount and Percentage of Contract Amount				

Company Name_____

Contact Person (print)_____

Signature _____

Date_____

Rev 9-18

CMHA

Prospective Business Vendor:

Enclosed, you will find a variety of forms regarding Section 3 (Housing & Urban Development Opportunities Act of 1968, as amended). Please complete and attach the Section 3 forms with your bid submission. ***Failure to submit the appropriate forms may jeopardize the proposal/bid up to and including the possibility of said proposal/bid being deemed non-responsive***

Anyone claiming to be a Section 3 Business Concern shall be required, as set forth by procedure, to provide evidence of such status. Section 3 Business Concerns claiming Section 3 Preference status must meet that status at the time the bid, quote or proposal is submitted to CMHA.

Section 3 Required Forms:

1) Section 3 Assurance of Compliance & Section 3 Clause
2) Section 3 Action Plan
3) Section 3 Business Concern Certification Form **(Optional)**
4) Preference Category Acknowledgement S3 Residents
5) Preference Category Acknowledgement S3 Business Concerns

If you need any assistance or help regarding Section 3, feel free to contact us. We look forward to assisting you with Section 3 implementation.

Sincerely,

Jacquetta Brown

Jacquetta Brown
Economic Inclusion Coordinator
(513) 977-5863
Jacquetta.Brown@cintimha.com
Section3@cintimha.com

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CMHA
Section 3 Assurance of Compliance Form

Training, Employment, and Contracting Opportunities for Section 3 Residents and Section 3 Business Concerns

A. The project assisted 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. 170u. Section 3 requires that to the *greatest extent feasible*, *newly created opportunities* that are generated by the awarding of this contract be given to:

- Section 3 Residents (30% minimum goal of new hires) upon their qualifications.
- Section 3 Business Concerns (10% of total construction subcontracting dollar amount awarded – based upon their qualifications).
- Section 3 Business Concerns (3% of total non-construction subcontracting dollar amount awarded- based upon their qualifications).

B. Notwithstanding any other provision of this contract, the applicant shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this contract. The requirements of said regulations include but are not limited to development and implementation of a Section 3 Action Plan/Strategy for utilizing Section 3 Business Concerns; the making of a good faith effort, as defined by the regulation, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 Clause" specified by Section 135.20 (b) of the regulations in all contracts for work in connection with the project. The applicant and recipient agency, certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

C. Compliance with the provision of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application of this contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant, its contractors and subcontractors, its successors, and assigns to the sanctions specified by the contract, and to such sanctions as are specified by 24 CFR Section 135.

Applicant: _____

Signature: _____

Address: _____

Date: _____

Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the "Section 3 Clause"):

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

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

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

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

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

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

G. In the event of a determination by the Executive Director or his/her designee that the Contractor is not in compliance with the section 3 clause or any rule, regulation, or report submission requirements of the CMHA, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further CMHA contracts for a period of one to three years.

CMHA

Contractor
Section 3 Action Plan Submission

The Section 3 Action Plan is a requirement for contracting opportunities with CMHA. The Section 3 Action Plan must indicate/describe the proposed strategies for achieving the Section 3 training and/or employment goals, and subcontracting numerical goals, when and if **newly created opportunities** are generated upon awarding of contracts. ***Failure to submit the Section 3 Action plan may jeopardize the proposal/bid up to and including the possibility of said proposal/bid being deemed non-responsive.***

Please review the Section 3 Action Plan information attached. ***All Sections need to be completed and signed***. This information will help to assist you in formulating your Section 3 Action Plan. You will need to address each question and check the appropriate boxes in regards to how your company will strive to achieve Section 3 Compliance to the "**greatest extent feasible**".

Please identify individual(s) responsible for planning, implementing and tracking the projects' Section 3 training, employment and/or contracting goals:

Name(s): _____

Contact Info: _____

Title(s): _____

Section 3 Hiring/Training Opportunity Strategies

Please check any and all efforts from the below mentioned categories that your company will utilize to recruit, solicit, encourage, facilitate and hire Section 3 Residents when new hiring/training opportunities are generated through the awarding of the contract. **Some of the items will be mandatory as indicated with **.** Your acknowledgement is still needed, so please check accordingly.

The Section 3 Action Plan is subject to audit at anytime during the awarding of the contract through the duration of the contract by the Section 3 Compliance Coordinator.

**** Commit that when new workers are hired by the company and/or subcontractors as a result of the contract, 30% of those hired will be Section 3 Residents.**

** **Contact the CMHA Section 3 Compliance Coordinator regarding new hiring and training opportunities.**

**** Provide the CMHA Section 3 Compliance Coordinator with a monthly report listing all hiring and training opportunities.**

**** Post notice (placards) at the worksite where the work is being done, indicating any new hiring and training opportunities**

Facilitate or co-facilitate Hiring Halls within close proximity to where the work is being done for Section 3 Residents.

Contact/Meet with Resident Associations informing them of new training and hiring opportunities.

Advertise new training and hiring opportunities in community and diversity newspapers/websites.

Sponsor or participate in job informational meetings or job fairs in the neighborhood or service area of the Section 3 covered project.

Establish an internal training program (pre-apprenticeship) that is consistent with Dept. of Labor requirements to provide Section 3 Residents with the opportunity to learn skills and job requirements.

Distribute flyers to CMHA owned sites indicating the number and types of jobs that will be offered with contact information.

Maintain a file of eligible qualified Section 3 Residents for future employment opportunities.

Incorporate into contract (after selection of bidders but prior to the execution of contracts), a negotiated provision for a specific number of Section 3 Residents to be trained and/or employed during the contract.

Other:

_____

_____

Note: You are required to the provide opportunities to "the greatest extent feasible" in order to comply with the requirements of Section 3. In the event that you are not able to hire/train and/or contract with Section 3 Residents and/or Section 3 Business Concerns, you will be required to document why you were unable to meet the numerical goals.

Signature: _____ *Date:* _____

Section 3 Subcontracting Opportunity Strategies

Please check any and all efforts from the below mentioned categories that your company will utilize to recruit, solicit, encourage, facilitate and contract with Section 3 Business Concerns when new subcontracting opportunities are generated through the awarding of the contract. **Some of the items will be mandatory as indicated with **.** Your acknowledgement is still needed, so please check accordingly.

The Section 3 Action Plan is subject to audit at anytime during the awarding of the contract through the duration of the contract by the Section 3 Compliance Coordinator.

**** Commit that when subcontracting occurs, 10% of the total dollar amount subcontracted out by the company and/or by subcontractors will go to Section 3 Business Concerns.**

**** Contact the CMHA Section 3 Compliance Coordinator regarding all new subcontracting opportunities.**

**** Provide the CMHA Section 3 Compliance Coordinator with a monthly report listing all subcontracting opportunities.**

Advertise new contracting opportunities in community and diversity newspapers/websites.

Maintain a file of eligible qualified Section 3 Business Concerns for future contracting opportunities.

Incorporate into contract (after selection of bidders but prior to the execution of contracts), a negotiated provision for a specific amount of work to be contracted with Section 3 Business Concern(s) during the contract.

Sponsor or participate in minority, women, small business expositions and or conferences in the Cincinnati, Ohio area to network and promote contracting opportunities with Section 3 Business Concerns.

Outreach to business assistance agencies, minority contracting associations, community organizations, to network and promote contracting opportunities with Section 3 Business Concerns.

Contact/Meet with Resident Associations informing them of new contracting opportunities.

Outreach to trade/labor organizations to network and promote contracting opportunities with Section 3 Business Concerns.

Host/Facilitate workshops geared to Section 3 Business concerns on contracting procedures and opportunities.

Become an active mentor to Section 3 Business Concerns.

Other:

_____

_____

Note: You are required to the provide opportunities to "the greatest extent feasible" in order to comply with the requirements of Section 3. In the event that you are not able to hire/train and/or contract with Section 3 Residents and/or Section 3 Business Concerns, you will be required to document why you were unable to meet the numerical goals.

Signature: _____ *Date:* _____

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Cincinnati Metropolitan Housing Authority
CERTIFICATION FOR PREFERENCE
AS A SECTION 3 BUSINESS CONCERN

Name of Business_____

Contact Person_____

Address/Zip_____

Phone_____Fax_____Email_____

Type of Business: Corporation Partnership Sole Proprietorship Joint Venture LLC
(please attach supporting documentations)

I understand that my contract with Cincinnati Metropolitan Housing Authority is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended AND to the Section 3 Action Plan that I will submit for this project.

I certify that the firm of _____(company's name) is applying to become a bonafide Section 3 business concern, and that it will meet the following definition of a Section 3 business concern (check at least one of the following):

☐ Category 1

Business concerns that are 51 percent or more owned by residents of CMHA housing or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of CMHA Residents as employees.

☐ Category 2

Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees.

☐ Category 3

HUD Youthbuild programs being carried out in the metropolitan area (or Nonmetropolitan County) in which the section 3 covered assistance is expended.

☐ Category 4

Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent of employees who meet the low-income guidelines and live in the CMHA covered assistance area; or businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the total dollar award of all subcontracts to be awarded to Section 3 business concerns.

☐ Business wishes to forgo Section 3 preferences in the awarding of the contract, but is still responsible for meeting Section 3 compliance.

Note: If you certify above that your business is a Section 3 Business, and you qualify for award of the contract based on the preference given to section 3 businesses and described in the solicitation, CMHA may request additional documentation and information as needed. If you have any questions about this form, please call Jacquetta Brown, at **(513) 977-5683, or send email to Section3@Cintimha.com.**
"I hereby certify the information provided by me to be true and correct, and understand any falsification of any of the information could subject me to punishment under the law."

Signature of Chief Executive Officer_____

Date _____

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Cincinnati Metropolitan Housing Authority

Section 3 Preference Categories: Section 3 Residents

CMHA's preference is to ensure as many CMHA residents as possible are employed. In an effort to further that goal, CMHA has created the following preference priority category structure for Section 3 Residents (Reference 24 CFR Part 135.34). Vendors are asked to comply with this priority preference to the greatest extent feasible. If the vendor cannot meet its Section 3 goal in this manner and needs to move onward to the next category, the vendor should document this inability to comply with the preference priority and the need to move onward to other categories.

Section 3 Resident Preference Priority Categories

- Category 1-Section 3 Resident Priority Definition:
  CMHA Public Housing Residents of the housing development or developments for which the section 3 covered assistance is expended;

- Category 2-Section 3 Resident Priority Definition:
  Residents of other housing developments managed by CMHA which is expending the section 3 covered housing assistance;

- Category 3-Section 3 Resident Priority Definition:
  Participants in HUD Youthbuild programs being carried out in the metropolitan area (or non-metropolitan county) in which the section 3 covered assistance is expended;

- Category 4-Section 3 Resident Priority Definition:
  Other Section 3 Residents who qualify under the low-income guidelines of HUD.

Signature: _____ Date: _____
Company Representative

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Cincinnati Metropolitan Housing Authority

Section 3 Preference Categories: Business Concerns

CMHA's preference is to ensure as many Section 3 Business Concerns as possible are afforded opportunities by contracting and/or subcontracting. In an effort to further our goal, CMHA has adopted the following preference priority category structure for Section 3 Business Concerns (Reference 24 CFR Part 135.36). Vendors are asked to comply with this priority preference to the greatest extent feasible. If the vendor cannot meet its Section 3 goal in this manner and needs to move onward to the next category, the vendor should document this inability to comply with the preference priority and the need to move onward to other categories. Vendors will receive a Section 3 Business Concern listing.

Section 3 Business Concern Preference Priority Categories:

- Category 1-Section 3 Business Concern Priority Definition:

Business concerns that are 51 percent or more owned by CMHA residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees.

- Category 2-Section 3 Business Concern Priority Definition:

Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by CMHA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees.

- Category 3-Section 3 Business Concern Priority Definition:

HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended.

- Category 4-Section 3 Business Concern Priority Definition:

Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents; or that subcontract in excess of 25 percent of the total amount of subcontracts to section 3 business concerns.

Signature: _____ Date: _____

Company Representative

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1. ARTICLE I CONTRACTOR'S RESPONSIBILITIES

1.1. The Contractor shall perform the Work in a workmanlike manner, consistent with the standards of skill and care exercised by entities licensed to perform (where required by Applicable Law) and regularly performing comparable work in the same or similar locality under the same or similar circumstances.

1.1.1. Furthermore, Contractor agrees to adhere to CMHA's quality standards as outlined in the Contract Documents; this includes, but is not necessary limited to, CMHA's Gold Standards of performance.

1.2. The Contractor shall perform the Work in accordance with the Contract Documents.

1.3. The Contractor shall furnish all labor, services, materials, tools, equipment, superintendence, and transportation necessary for performance of the Work.

1.3.1. Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by CMHA.

1.4. The Contractor shall perform on the site and with its own organization, work equivalent to at least {12%} (unless otherwise indicated) of the total amount of work to be performed under the order.

1.4.1. This percentage may reduce by a supplemental agreement to this Construction Contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be the advantage of CMHA.

1.5. At all times during performance of this Construction Contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent whose qualifications and experience are satisfactory to CMHA and has authority to act on behalf of the Contractor.

1.6. The Contractor shall be responsible for all damages, including, but not limited to, damages to persons or property, that occur as a result of the Contractor's breach of this Construction Contract, fault or negligence.

1.6.1. The Contractor shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others.

1.6.2. The Contractor shall hold and save CMHA, including CMHA's officers, employees, consultants, and agents, free and harmless from damages, claims, demands, suits and liabilities of any nature, including but not limited to, all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, caused by the Contractor's breach of this Construction Contract, fault, negligence or performance of the Work.

1.6.3. The Contractor shall also be responsible for all storage, protection and cleaning of materials delivered and Work performed on the Project, until Contract Completion and acceptance of the entire Project by CMHA, except for any completed unit of Work which may have not been accepted under the Construction Contract.

1.7. The Contractor shall lay out the work from base lines and bench marks indicated in the drawings and be responsible for all lines, levels, and measurements of all work executed under the Contract Documents.

1.7.1. The Contractor shall verify the lines, bench marks, figures and dimensions indicated in the Contract Documents before laying out the work and will be held responsible for any resulting errors resulting from its failure to do so.

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

1.9. The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials.

1.9.1. After completing the Work and before final inspection, the Contractor shall:

A. Remove from the premises all scaffolding, equipment, tools, materials (including rejected materials) that are not the property of CMHA and rubbish caused by its work;

B. Leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer;

C. Perform all specified tests; and

D. Deliver the installation in complete and operating conditions.

1.10. The Contractor must perform the Work so as to not interfere with, disturb, hinder, or delay the services of separate consultants or the work of separate contractors.

1.10.1. The Contractor must cooperate and coordinate fully with all separate consultants and separate contractors and must freely share all of the Contractor's Project-related information with them to facilitate the timely and proper performance of the Work and of the services and work of the separate consultants and separate contractors.

1.10.2. The Contractor must afford every separate consultant and separate Contractor proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their services and work.

1.10.3. If the Contractor damages the property or work of any separate consultant or separate Contractor caused by Contractor or by failure to perform the Work with due diligence, delays, interferes with, hinders, or disrupts the services of any separate consultant or separate Contractor who suffers additional expense and damage as a result, the Contractor is responsible for that damage, injury, or expense.

1.10.4. The intent of 1.10 is to benefit any separate consultants and separate contractors and to demonstrate that the separate consultants or separate contractors are intended third-party beneficiaries of Contractor's obligations under the Contract.

1.11. If the proper execution or result of any part of the Work depends upon work performed or services provided by CMHA, a separate consultant, or a separate Contractor, the Contractor must inspect that other work and appropriate instruments of service, and promptly report to CMHA in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Work.

1.11.1. The Contractor's failure to inspect and promptly report any issues in writing will constitute an acceptance of the other work and services as fit and proper for integration with the Contractor's Work unless in the opinion of CMHA's Project Manager and/or Construction Contract Administrator the defects and deficiencies in the other work and appropriate instruments of service were not reasonably discoverable at the time of the Contractor's inspection.

1.12. The Contractor shall not delay the Work on account of any claim, dispute, or action between the Contractor and CMHA or the Contractor a Separate Consultant or Separate Contractor.

1.13. The Contractor shall complete all portions of Work in the sequence in the Construction Progress Schedule.

1.14. The Contractor shall develop and keep a Construction Progress Schedule and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule for CMHA's acceptance.

1.15. The Project's regular work hours shall be between 8:00 am and 5:00 pm, or as determined and approved by CMHA.

1.15.1. The Contractor may modify the regular work hours only if Contractor receives written authorization from CMHA's Project Manager and/or Construction Contract Administrator.

1.16. The Contractor shall coordinate the Work with the activities and responsibilities of the Project's architect or engineer ("A/E"), CMHA and Contractor's surety to meet the contractual dates for Substantial Completion and Contract Completion.

1.17. The Contractor shall remove any snow and ice as may be required for reasonably safe access to the Project, including, without limitation, building entries, driveways, parking lots, and sidewalks.

1.18. The Contractor shall keep a daily log containing a record of weather, number of workers on Site for the Contractor, identification of equipment, Work accomplished, problems encountered and other similar relevant data.

1.19. The Contractor hereby represents and agrees that, prior to submitting its bid or quote to perform the Work on the Project, it has had a competent person carefully and diligently review each part of the Contract Documents, including the Divisions of the Specifications and parts of the Drawings that are not directly applicable to the Work.

1.19.1. Contractor further represents and agrees that, based upon its careful and diligent review of the Contract Documents, that it is not aware of any conflicts, inconsistencies, errors, or omissions in the Contract Documents for which it has not notified CMHA or the A/E.

1.19.2. If there are any such conflicts, inconsistencies, errors, or omissions in the Contract Documents, the Contractor will:

A. Provide the labor, equipment, or materials of the better quality or greater quantity of Work; and/or

B. Comply with the more stringent requirements.

1.19.3. The Contractor will not be entitled to any additional compensation for any conflicts, inconsistencies, errors, or omissions that would have been discovered by such careful and diligent review.

1.20. The Contractor hereby represents and agrees that the Project is a public project involving public funds.

1.20.1. The Contractor further understands that CMHA expects and requires that each Contractor adhere to the highest ethical and performance standards.

1.20.2. Accordingly, Contractor hereby pledges and agrees that:

A. It will act at all times with absolute integrity and truthfulness in its dealings with CMHA and the A/E;

B. It will use its best efforts to cooperate with CMHA and the A/E and all other contractors and consultants on the Project and at all times will act with professionalism and dignity in its dealings with CMHA, the A/E, and other contractors;

C. It will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her; and

D. It has read, understands and will comply with the terms of the Contract Documents.

1.21. Emergency

1.21.1. In the event of an emergency affecting the safety of the Project, other property, or individuals, the Contractor, without special instructions or authorization, shall act to prevent the threatened damage, injury, or loss.

1.21.2. If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of its actions in response to any emergency, the Contractor may request a Change Order by giving written notice no later than 48-hours after the emergency.

2. ARTICLE II HOUSING AUTHORITY RIGHTS AND RESPONSIBILITIES

2.1. CMHA shall designate a Project Manager and/or Construction Contract Administrator for the Project.

2.2. CMHA shall have access to the Work and Site at all times, whether the Project is in preparation or progress.

2.3. CMHA is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

2.4. Upon the date indicated in the Notice to Proceed, CMHA shall provide the Site to the Contractor in a condition to permit the Contractor to perform the Work.

2.4.1. If the Site provided by CMHA is not in a condition to permit the Contractor to perform the Work, Contractor shall notify CMHA's Project Manager and/or Construction Contract Administrator within 48 hours of the Notice to Proceed and identify the conditions which are preventing Contractor from performing the Work.

3. ARTICLE III A/E'S DUTY, RESPONSIBILITY AND AUTHORITY

3.1. The A/E for this Contract and any successor shall be designated in writing by CMHA.

3.2. The A/E's duties and responsibilities may include, but shall not be limited to:

3.2.1. Attend and conduct the Construction Progress Meetings.

3.2.2. Making periodic visits to the work site and on the basis of his/her on-site inspections, issuing written reports to CMHA which shall include all observed deficiencies.

A. The A/E shall electronically send a copy of the report to CMHA and to the Contractor's designated representative at the site.

3.2.3. Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of Change Orders and other Contract Modifications for issuance to the Contracting Officer.

3.2.4. The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or Contract Times, or both.

A. The A/E has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Time, or both.

3.2.5. Reviewing and making recommendations with respect to:

A. The Contractor's Construction Progress Schedules;

B. The Contractor's shop and detailed drawings; and

C. The Contractor's price breakdown and progress payment estimates.

3.2.6. Assisting in inspections, signing Certificates of Substantial Completion and Contract Completion, and making recommendations with respect to acceptance of work completed under the Contract; and

3.2.7. Approve or certify applicable forms required under the Contract Documents.

3.3. Site Visits and Observation

3.3.1. The A/E shall notify, advise, and consult with CMHA and protect CMHA against Defective Work throughout completion of the Project, which includes the Correction Period, and for such time period CMHA may extend A/E's services.

A. The A/E should designate a field representative, subject to CMHA's approval, to attend meetings, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

B. The A/E shall have its consultants attend to the Project at intervals required by its agreement or required by CMHA.

3.3.2. The A/E is authorized to disapprove or reject Defective Work. The A/E shall immediately notify CMHA any time the A/E disapproves or rejects an item of Work.

3.3.3. The A/E is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for work safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

3.4. Testing and Inspection Services

3.4.1. Unless otherwise specified in the Contract Documents, CMHA shall apply for, secure, and pay for the costs of structural testing and special inspections under the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air, and water balancing and testing, or other testing, or approvals required by Applicable Law.

3.5. A/E Review and Approval of Work

3.5.1. Any information the Contractor submits to the A/E is for the sole purpose of determining whether the Work and information is generally consistent with the Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

3.5.2. By reviewing information submitted by the Contractor, A/E is not taking on responsibility for construction means, methods, manners, techniques, sequences, procedures, or for work safety precautions and programs in connection with the Work.

3.6. Limitation of A/E's Authority

3.6.1. The A/E shall serve as the technical representative for CMHA with respect to architectural, engineering, and design matters related to the Work performed under the Contract.

3.6.2. Subject to the Contractor's responsibility under ARTICLE I, the A/E may provide direction on Contract performance.

3.6.3. Such direction shall be within the scope of the Contract and may not be of a nature which:

A. Institutes additional work outside of the scope of the Contract;

B. Constitutes a change;

C. Causes an increase or decrease in the cost of the Contract;

D. Alters the Construction Progress Schedule;

E. Changes any of the other express terms or conditions of the Contract;

F. Accepts any defective or non-conforming services, Work, or vendor-furnished items;

G. Makes any settlements on CMHA's behalf;

H. Assumes any responsibilities of the Contractor or Subcontractors; or

I. Binds CMHA to any authorizations under, modifications of, or amendments to the Contract Documents other than as expressly providedA/E'S DUTY, RESPONSIBILITY AND AUTHORITY.

3.7. The Contractor acknowledges and agrees that CMHA's legal counsel may from time to time provide legal services to the Project and that in doing so may communicate with the A/E, as CMHA's representative on the Project.

3.7.1. The Contractor agrees that such communications will be privileged communications and, if there is a Claim contemplated or pending, any written communications will be protected by the attorney client privilege and considered confidential work product.

4. ARTICLE IV PRECONSTRUCTION ACTIVITIES

4.1. Pre-construction Conference

4.1.1. Within ten (10) calendar days, unless otherwise indicated by CMHA, of Contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with CMHA representatives; CMHA's A/E, and other interested parties convened by CMHA.

A. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the Contract.

B. CMHA will provide the Contractor with the date, time, and place of the conference.

4.2. Certificate of Insurance

4.2.1. Before commencing work, the Contractor and each Subcontractor shall furnish CMHA with certificates of insurance showing the minimum insurance coverage is in force and will insure all operations under the Contract.

4.3. Building and Trade Permits, Licenses and Codes

4.3.1. The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules, and regulations.

A. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the Contract, all Work installed shall comply with all applicable laws, ordinances, codes, rules, and regulations, as may be amended by any waivers.

B. Before installing the Work, the Contractor shall examine all drawings and the specifications for compliance with applicable laws, ordinances, codes, rules, and regulations bearing on the work and shall immediately report, in writing, any discrepancy it may discover to the CMHA's Project Manager and/or Construction Contract Administrator and the A/E.

i. If required by any governing jurisdiction, CMHA will modify the Contract by change order so that the Work on the Project will conform to the applicable laws, ordinances, codes, rules, and regulations.

C. If the Contractor installs any Work that does not comply with all applicable laws, ordinances, codes, rules, and regulations before providing notice hereunder to CMHA and receiving direction from CMHA, Contractor shall be responsible for all costs resulting from any removal, demolishing, and disposing of any Work that must be replaced or repaired.

4.3.2. Notwithstanding the provisions below, the Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of Work.

A. Where CMHA can arrange for the issuance of all or part of these permits, fees, and licenses, without cost to the Contractor, the Contract amount shall be reduced accordingly.

4.4. Plan Approval and Permits

4.4.1. The A/E shall facilitate the required structural, plumbing, HVAC, and electrical plan reviews during the design phase, as required by the governing jurisdiction for securing an overall building permit to start construction.

4.4.2. The Contractor shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work or any governing jurisdiction.

4.4.3. The Contractor shall schedule with the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits.

4.4.4. The Contractor shall give the A/E and CMHA reasonable notice of the dates and times for any inspections.

A. The Contractor shall pay for all initial inspections and re-inspections required as a result of Contractor's failure to receive approval for its Work.

4.5. Trade Permits and Licenses

4.5.1. The Contractor shall secure and pay the fees for any permit, inspection, or license applicable to the Contractor's particular trade.

4.5.2. Local Permits:

A. The Contractor shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project.

i. The Contractor shall give the A/E and CMHA reasonable notice of the date(s) arranged for inspections.

4.5.3. National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit:

A. The A/E shall secure the NPDES general permit by submitting a Notice of Intent (NOI) application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction.

i. The Contractor shall be a co-permitee, if required under Applicable Law.

B. The A/E shall prepare and certify the storm water pollution prevention plan to provide sedimentation and erosion controls at the Project. The A/E shall prepare and process the required Notice of Termination (NOT) prior to Contract Completion.

5. ARTICLE V CONSTRUCTION REQUIREMENTS

5.1. Commencement of Work on Site

5.1.1. Unless CMHA agrees otherwise in writing, the Construction Stage will commence with CMHA issuing the Notice to Proceed and will terminate upon CMHA issuing a Certificate of Contract Completion to the Contractor. The Certificate of Contract Completion will be issued in accordance with the requirements of the Contract Documents and will not occur until after CMHA issues a Certificate of Substantial Completion, a Certificate of Occupancy is issued for the Project, and the Contractor has completed all items on the punch list delivered to Contractor by CMHA as provided in Article IX. The time period for Contract Completion in provided in Section 9.8.

5.1.2. Notice to Proceed:

A. The Contractor shall begin work upon the date indicated in a written Notice to Proceed from CMHA or its designee.

i. The Contractor shall not begin work prior to receiving such notice.

B. Typically, the Notice to Proceed shall be issued within 180 days of CMHA Board of Commissioner Approval.

C. If the Notice to Proceed is not issued with 180 days of CMHA Board of Commissioner Approval, CMHA may, in its sole discretion, terminate the Contract without recourse from the Contractor.

5.2. Environmental Controls

5.2.1. The Contractor shall protect its Work and materials from damage from water, moisture, and other weather, including damage from water run-off from other property or structures, and damage from heat, cold, and humidity.

5.2.2. Contractor is not authorized to use permanent HVAC system without express written authorization from CMHA.

5.2.3. Until the permanent HVAC system is complete and available for use:

A. The Contractor shall make arrangements and pay for installation and maintenance of temporary heating, cooling and ventilating systems; and

B. The Contractor shall pay the costs incurred in operating the temporary heating, cooling and ventilating systems.

5.2.4. When the permanent HVAC system is complete and available for use:

A. The Contractor shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating, cooling and ventilating systems.

B. If the Project consists entirely of new construction, the Contractor shall pay the costs of energy consumed in operating the permanent HVAC system until Substantial Completion.

5.2.5. From the date of Substantial Completion, CMHA shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

5.2.6. Use of the permanent HVAC system during construction shall not change, modify or reduce the Contractor's warranty and service obligations under the Contract Documents.

5.3. Construction Procedures

5.3.1. The Contractor is solely responsible for and has control over all construction means, methods, techniques, sequences, and procedures, for safety precautions and programs in connection with the Work, and for coordinating all portions of the Work.

5.3.2. If the Contract Documents give instructions that affect construction means, methods, manners, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety of them and, except as expressly stated herein, be fully and solely responsible for the jobsite safety of the means, manners, methods, techniques, sequences, or procedures.

5.3.3. If the Contractor determines that the means, methods, manners, techniques, sequences, or procedures specified in the Contract Documents may not be safe, the Contractor shall give timely written notice to CMHA.

A. The Contractor shall not proceed with that portion of the Work without further written instructions from CMHA.

5.3.4. Additional Contractor Responsibilities:

A. The Contractor shall lay out and coordinate all lines, levels, elevations, and measurements for all of the Work, coordinate and verify existing conditions, and notify the A/E and CMHA of discrepancies and conflicts before proceeding with installation or excavation.

B. The Contractor shall perform all cutting, fitting, or patching required for the Work and shall not endanger the Project by cutting, excavating, or otherwise altering the Project or any part of it.

C. If the Design requires sleeves for completing the specified Work, the Contractor and all Subcontractors shall coordinate to furnish and install the sleeves.

i. The Contractors are responsible for the exact location of and size of all holes and openings required to be formed or built for the Work.

D. The Contractor's patching shall match and blend with the existing adjacent surfaces.

E. In addition to the items herein, The Contractor is responsible for all items in REF _Ref449941734 \h CONTRACTOR'S RESPONSIBILITIES.

5.4. Utilities

5.4.1. Availability and Use of Utilities

A. If CMHA has existing access to utilities, CMHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and service as specified herein so long as the utility use does not interfere with CMHA's operations.

i. Unless otherwise provided in the Contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to CMHA or where the utility is produced by CMHA, at reasonable rates as determined by CMHA.

ii. The Contractor shall carefully conserve any utilities furnished by CMHA without charge.

B. The Contractor, at its expense and in a manner satisfactory to CMHA, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges.

i. Before final acceptance of the Work by CMHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

5.4.2. The Contractor shall comply with the requirement of the Ohio Revised Code, including ORC.

A. In addition, before starting excavation or trenching, the Contractor shall determine the location of any underground utilities and notify any public authority or utility having jurisdiction over the Project and secure any required approval.

5.4.3. The Contractor shall give CMHA at least two (2) business days advance notice of excavation of underground utilities registered with the Ohio Underground Utility Protection Services ("OUPS") and underground utilities shown on the drawings and Specifications who are not registered member of OUPS.

A. The Owner of an underground utility is required within 48 hours' notice to stake, mark, or otherwise designate the location for its utilities in the construction area together with its approximate depth.

B. In the event that any underground utility owner fails to timely perform, the Contractor shall notify the A/E and contact CMHA regarding the failure of the underground utility to timely perform its work.

5.4.4. Water and Drainage

A. The Contractor shall provide water necessary for the Work until the permanent plumbing system is available for use.

B. The Contractor shall provide all temporary drainage and all dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and any other equipment necessary or required to provide satisfactory working conditions for the protection, execution, and completion of the Project. The Contractor shall be responsible for determining the specific means and methods to be used for dewatering.

C. The Contractor shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

D. When the permanent plumbing system is complete and available for use:

i. The Contractor shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.

ii. If the Project consists entirely of new construction, the Contractor shall pay the costs of water consumed and sewage charges until Substantial Completion.

iii. If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, CMHA shall pay the costs of water consumed and sewage charges.

(a) If separate metering of utilities is available, the Contractor and CMHA will pay the costs of their respective use.

E. After the date of Substantial Completion, CMHA shall pay the costs of water consumed and sewage charges for the occupied portion of the Project.

F. Use of the permanent plumbing system during construction shall not change, modify, or reduce the Contractor's warranty and service obligations under the Contract Documents.

5.4.5. Electric Service

A. The Contractor shall provide temporary light and power; pay the charges for temporary electric service, installation, and removal if required.

B. If the Project consists entirely of new construction, the Contractor shall pay the cost of energy consumed until Substantial Completion.

C. If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, CMHA shall pay the cost of energy consumed.

i. If separate metering of utilities is available, the Contractor and CMHA will pay the costs of their respective use.

D. From the date of Substantial Completion, CMHA shall pay the cost of energy consumed for the occupied portions of the Project.

E. Use of the permanent electrical system during construction shall not change, modify, or reduce the Contractor's warranty and services obligations under the Contract Documents.

5.4.6. Payment of Utility Services

A. Unless otherwise expressly stated in the Contract Documents, Contractor shall reimburse CMHA the cost of utility services during the Construction Period.

B. Unless otherwise expressly stated in the Contract Documents, payment for reimbursement of CMHA for the cost of utility services during the Contract Period shall be made directly to CMHA.

i. If payment is not received, CMHA may deduct the cost of utility services from payments otherwise due to the Contractor.

ii. If the payments otherwise due to the Contractor are not sufficient to fully reimburse CMHA, either Contractor or its surety shall make whatever payments are necessary to fully reimburse CMHA.

C. Process for Payment:

i. Reimbursement from the Contactor shall be performed on a quarterly basis unless a more frequent payment schedule is agreed upon between CMHA and the contractor prior to start of the project.

5.4.7. Hoisting Facilities

A. The Contractor shall erect and maintain any hoisting equipment required for its Work.

B. If the electric service requirements of hoisting facilities differ from that available at the Site, the Contractor shall provide and pay for all necessary connections.

C. If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

5.4.8. Interruption of Existing Services

A. Whenever it becomes necessary to interrupt existing services in use by CMHA or its tenants, including, but not limited to, sewer, water, gas, steam lines, electric, telephone, and cable service, the Contractor shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or perform the associated Work at an alternate time as required by and in coordination with CMHA.

B. Before beginning that Work, the Contractor shall apply in writing to, and receive approval in writing from CMHA to establish a time when interruption of the service will cause a minimum of interference with the activities of CMHA and its tenants.

5.5. Construction Supervision

5.5.1. Unless waived by CMHA in writing, the Contractor shall provide continuous supervision at the Site through a competent project manager or superintendent when any Work is being performed.

A. The Contractor's project manager or superintendent shall not be involved with any work for Contractor other than the Project.

5.5.2. The Contractor's project manager and superintendent shall each have responsibility and authority to act on behalf of the Contractor.

A. All communication to the Contractor's project manager and superintendent shall be binding as if given directly by the Contractor.

5.5.3. The Contractor shall submit an outline of the qualifications and experience of the Contractor's proposed project manager and superintendent, including references, to CMHA no later than two (2) business days after request from CMHA.

A. For all Subcontracts in excess of $200,000 and for all other Subcontracts requested by CMHA, the Contractor shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to CMHA no later than two (2) business days after CMHA's request.

B. CMHA may reject the Contractor or Subcontractor's proposed project manager and/or proposed superintendent.

i. If CMHA does not notify the Contractor of the rejection within thirty (30) calendar days after receiving the required information, it shall then indicate that CMHA does not have an objection, but does not affect CMHA's rights under the Contract Documents or any other provision relative to the project manager or superintendent.

C. If CMHA rejects the Contractor or Subcontractor's proposed project manager or proposed superintendent, the Contractor shall replace, or cause the Subcontractor to replace the project manager or superintendent (as appropriate) with someone acceptable to CMHA at no additional cost.

5.5.4. If CMHA does not object the proposed project manager or superintendent, the Contractor and its Subcontractor shall not replace their respective project managers and superintendents without prior written approval of CMHA.

5.6. Construction Progress Schedule

5.6.1. The Contractor shall, no later than seven (7) calendar days of the issuance of the Notice to Proceed or another period of time determined by the CMHA, prepare and submit to CMHA for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the Work, the dates on which the Contractor contemplates starting and completing the several salient features of the Work (including acquiring labor, materials, and equipment).

A. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period.

i. The Chart must be in a Critical Path Method (CPM) format.

B. If the Contractor fails to submit a schedule, that is acceptable to CMHA, within the time prescribed, CMHA may withhold approval of progress payments or take other remedies under the Contract until Contractor submits the required schedule that is acceptable to CMHA.

5.6.2. The Contractor shall monitor the Work for conformance with the Construction Progress Schedule and shall initiate revisions as required herein.

5.6.3. The Contractor shall enter the actual progress on the Construction Progress Schedule as required by CMHA, and after each update, Contractor shall immediately deliver three copies of the annotated Construction Progress Schedule to CMHA.

A. If CMHA determines, upon the basis of inspection conducted, herein that the Contractor is not meeting the approved Construction Progress Schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by CMHA, without additional cost to CMHA.

B. If the Contractor is not meeting the approved Construction Progress Schedule, CMHA may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as CMHA deems necessary to demonstrate how the approved rate of progress will be regained.

5.6.4. Failure of the Contractor to comply with the requirements of CMHA shall be grounds for a determination by CMHA that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract.

A. Upon making this determination, CMHA may terminate the Contractor's right to proceed with the work, or any separable part of it.

5.6.5. Unless otherwise agreed to in writing, the Contractor shall develop the Construction Progress Schedule using commercially available, personal computer software acceptable to CMHA and shall submit all baseline and updated schedules to CMHA in the schedule's native format.

A. This submission shall be in both electronic and paper format.

5.6.6. The Construction Progress Schedule shall not exceed the time limits under the Contract Documents, shall provide for reasonable, efficient, and economical execution of the Project and shall relate to the entire project to the extent required by the Contract Documents.

A. In the event that a Construction Progress Schedule submitted by Contractor shows a completion date that extends beyond the Contract Time permitted to Contractor in the Contract Documents, such Construction Progress Schedule shall not be deemed to modify the Contract Time permitted in the Contract Documents. The Contract Time can only be changed by a properly executed Change Order.

5.6.7. The Contractor shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining work by Contract Completion within applicable Milestones.

A. The Project participants shall use the Construction Progress Schedule as a tool for scheduling and reporting sequences and/or the progress of the Work.

B. The Contractor shall provide a clear graphics legend and other data including without limitation Milestone dates, constraints, and other items required by the Project and CMHA.

C. Each submission shall show CMHA's Project number and Project name, and provide a signature approval and date line for the Contractor.

5.6.8. The Contractor shall provide the following in each Construction Progress Schedule:

A. Activity identification and description of each activity broken down to a maximum duration that is appropriate for the activity;

B. Contractor or Subcontractor performing each task;

C. Contractor's resources and crew size for each activity; and

D. Provide early start, early finish, late start, late finish dates.

5.6.9. Each Construction Progress Schedule shall show predecessor activities and successor activities for each activity, entry free float, total float and percentage of completion, and identify the appropriate predecessors and successors for all related activities.

5.6.10. The Construction Progress Schedule shall show all submittal dates, review and approval durations for coordination drawings, Shop Drawings, other action submittals and mock-up Work.

5.6.11. The Contractor shall submit the initial and all updates of the Construction Progress Schedule in graphic and tabular form to CMHA.

A. With each monthly Construction Progress Schedule update, the Contractor shall include a list of all changes to the previously approved baseline schedule or monthly updated schedule.

5.6.12. The Construction Progress Schedule shall be managed using early start dates and early finish dates.

A. The Contractor must exhaust all existing float before claiming additional time for a Change Order.

5.6.13. The Contractor's failure to submit and properly maintain an approved Construction Progress Schedule may result in withholding payment in accordance with the Contract Documents.

5.6.14. For each Progress Meeting, the Contractor shall provide a 2-6 week look-ahead schedule, as appropriate for the Project.

5.6.15. On a monthly basis, the Contractor shall prepare and submit to CMHA a written report describing:

A. Activities begun or finished during the preceding month;

B. Activities in progress and expected completion;

C. Activities to be started or finished in upcoming month including, without limitation, the Contractor's workforce size and total resource hours associated with those activities;

D. Recommendations for adjusting the Construction Progress Schedule to meet Milestone dates, the Substantial Completion date and the Contract Completion date; and

E. Other information requested by CMHA.

5.6.16. If it is apparent that the Contractor may be unable to meet Critical Path activities, Milestone completion dates, the Substantial Completion date(s) or the Contract Completion date, CMHA shall direct the Contractor to submit within three (3) business days a Recovery Plan to avoid or minimize a delay in the Project.

5.6.17. A Recovery Plan shall include, without limitation, adjustments to one or more of the following:

A. Workforce

B. Hours per shift

C. Shifts per workday

D. Workdays per week

E. Equipment

F. Activity logic

5.6.18. If CMHA approves the Recovery Plan, the Contractor shall prepare a revised Construction Progress Schedule within three (3) business days to CMHA.

A. If CMHA rejects the Recovery Plan, the Contractor shall submit, within three (3) days of CMHA's rejection, an alternate Recovery Plan to CMHA in writing for review and in accordance the Contract Documents.

5.6.19. The Contractor shall update the Construction Progress Schedule on a monthly basis, or other interval as approved by CMHA, in accordance with the Contract Documents.

A. The Contractor shall submit a tabular copy showing all changes to the previously approved schedule including, without limitation, logic, float, and actual start date of activities.

i. The original or initially approved Construction Progress Schedule and all subsequent Construction Progress Schedules submitted by the Contractor, and accepted by CMHA, shall serve as an affirmation that the Contractor agrees to meet the applicable requirements and updated Construction Progress Schedule.

B. The Contractor's failure to timely submit updated Construction Progress Schedules as deemed necessary by CMHA may result in withholding payments in.

5.7. Progress Meetings

5.7.1. Unless otherwise indicated in writing, CMHA shall schedule weekly Progress Meetings for the Contractor and other persons involved in the Project as deemed necessary for coordination of the Work by CMHA, including Contractor's Subcontractors on the Project.

A. The purpose of the Progress Meeting is to review progress on the Project during the previous week, discuss anticipated progress during the following weeks, review critical operations, and discuss critical problems.

5.7.2. The Contractor shall be represented at every Progress Meeting by a person authorized with signatory authority to make decisions regarding possible modifications of the Contract Documents or Construction Progress Schedule.

A. CMHA shall notify the Contractor and other persons involved in the Project of the time and place of the Progress Meeting that shall thereafter be the same day and hour of the week for the duration of the Project, unless CMHA notifies the Contractor and other Persons involved in the Project of a different day and hour at least two (2) business days in advance.

B. The Contractor shall have any of its Subcontractors attend the Progress Meeting as determined by the Contractor, or as requested by CMHA.

C. Unless otherwise indicated in writing, CMHA shall prepare a written report of each Progress Meeting and distribute the report to the A/E and the Contractor.

D. If any person in attendance objects to anything in a report of a Progress Meeting, the person shall notify CMHA and any other affected person in writing explaining the objections within seven (7) calendar days of receipt of the Progress Meeting report.

E. The report of each Progress Meeting shall reflect any objection made to the report of the previous Progress Meeting and any response.

5.8. Project Coordination

5.8.1. If determined needed by CMHA, the Contractor or Subcontractor(s), the Contractor shall prepare Coordination Drawings for any Coordination Area.

A. The Contractor shall prepare the Coordination Drawings with Computer-Aided Design ("CAD") or Building Information Modeling ("BIM") software acceptable to CMHA.

B. The Coordination Drawings shall show the all affected work, including without limitation, plan and elevation dimensions.

5.8.2. After the Contractor completes the Coordination Drawings, the Contractor shall forward a copy of the Coordination Drawings to CMHA.

A. The A/E shall report any concerns in writing to the Coordination Participants within fourteen (14) calendar days after receiving the Coordination Drawings.

5.9. Additional Tests and Inspections

5.9.1. If the A/E or CMHA determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E and/or CMHA shall order such inspection, testing, or approval.

5.9.2. If the special inspection, testing, or approval reveals Defective Work, the Contractor shall pay all associated costs and will not be entitled to any related adjustment of the Contract Times.

A. Those costs may include without limitation:

i. The cost of special inspection, testing, or approval;

ii. The cost of additional special inspections, testing, or approvals, to evaluate Remedial Work;

iii. The cost of correcting Defective Work; and

iv. All related CMHA-incurred fees and charges of contractors, engineers, architects, attorneys, and other professionals.

5.9.3. CMHA may deduct the costs described under the Contract Documents from payments then or thereafter due the Contractor.

A. If payments then or thereafter due to the Contractor are not sufficient to cover those amounts, the Contractor or it surety shall immediately pay the amount of the insufficiency to CMHA.

5.9.4. If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents, and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the special inspection, testing, or approval, the Contractor may file a Claim by requesting a Change Order by giving written notice within seven (7) calendar days after the special inspection, testing, or approval.

5.9.5. If the Contractor is aware of the need of an inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the Contractor shall timely communicate such information to CMHA.

5.9.6. Except as described in Additional Tests and Inspections, CMHA shall pay for any inspection, testing, or approval that did not become a requirement until after award of the Contract.

5.9.7. The Contractor shall coordinate with and give CMHA reasonable notice of the anticipated dates of all inspections, testing, or approvals.

5.10. Review of Contract Documents

5.10.1. Before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

5.10.2. If the Contractor finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the Contractor, before proceeding with the Work, shall promptly submit a Request for Information ("RFI") to CMHA for an interpretation or clarification.

A. Before submitting any RFI, the Contractor shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

B. If Contractor indicates that the information requested in the RFI affects the critical path of the Project's Construction Progress Schedule and attaches the portion of the Project's Construction Progress Schedule that verifies that the information requested in the RFI affects the critical path, CMHA shall make all reasonable efforts to respond to the RFI within seven (7) business days of receiving the RFI.

5.10.3. If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of clarifications or instructions issued in response to a RFI, the Contractor may submit a Claim by requesting a Change Order by giving notice within three (3) business days of receiving the RFI response.

5.10.4. If Contractor does not notify CMHA in accordance with 5.10.3 or any other section that addresses adjustments to the Contract Sum and Contract Time, the Contractor will have accepted the RFI response without an adjustment to the Contract Sum or Contract Time and irrevocably waives his right to submit or request an adjustment to the Contract Sum and/or Contract Time.

5.10.5. Frivolous RFI

A. If the Contractor submits a frivolous RFI, as determined by CMHA, Contractor shall be liable to CMHA for the costs related to the review and response of the RFI.

i. CMHA may deduct the costs described herein from payments then or thereafter due the Contractor.

ii. If payments then or thereafter due to the Contractor are not sufficient to cover CMHA's costs, the Contractor or it surety shall immediately pay the amount of the insufficiency to CMHA.

B. Frivolous RFIs may be returned unanswered.

5.10.6. Delays caused by improper or frivolous RFI's are the sole responsibility of the Contractor who shall waive the Contractor's right to seek adjustments to the Contract Sum and Contract Time.

5.11. Site Investigation and Conditions Affecting the Work

5.11.1. The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including, but not limited to:

A. Conditions bearing upon transportation, disposal, handling, and storage of materials;

B. The availability of labor, water, electric power and roads;

C. Uncertainties of weather, river stages, tides, or similar physical conditions at the site;

D. The conformation and conditions of the ground; and

E. The character of equipment and facilities needed preliminary to and during work performance.

5.11.2. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by CMHA, as well as from the drawings and specifications made part of this contract.

A. Any failure of the Contractor Site Investigation and Conditions Affecting the Work will not relieve the Contractor from responsibility for properly estimating or properly evaluating the difficulty and cost of successfully performing the Work without additional expense to CMHA.

5.11.3. CMHA assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by CMHA.

A. Nor does CMHA assume responsibility for any understanding reached or representations made concerning conditions which can affect the Work by any of its officers or agents before execution of this Contract, unless that understanding or representation is expressly stated in this Contract.

5.12. Protection of the Project

5.12.1. The Contractor shall protect the Project from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Substantial Completion of the Work.

A. The Contractor shall at all times cover or protect the Work and materials.

B. The Contractor, at its own expense, shall remove, and replace with new, any Work damaged as a result of the Contractor's failure to provide coverage or protection.

C. After the date of Substantial Completion of the Work, CMHA is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project from injury or damage.

5.12.2. The Contractor shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, lateral support, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

5.12.3. Temporary Heating

A. The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to protect all Work and materials against damage by dampness and cold, to dry out the Work, and to facilitate the completion of Work.

B. Any permanent heating equipment used by Contractor or Subcontractors shall be turned over to CMHA in the condition and at the time required by the specifications.

5.12.4. The Contractor shall not load, or permit any part of the Project to be loaded, in any manner that endangers the Project, or any proportion thereof.

A. The Contractor shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

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

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

B. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place.

i. If any limbs or branches of trees are broken during performance of this Contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as specifically directed by CMHA.

C. The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor.

i. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.

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

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

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

G. No structural members shall be altered or in any way weakened without the written authorization of CMHA, unless such work is clearly specified in the Plans or specifications.

H. If the removal of the existing Work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious.

i. This, however, shall not be construed to require the refinishing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different plans or on different levels when brought together by the removal of intervening work, unless such refinishing or reconstruction is specified in the plans or specifications.

I. The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before commencement of any Work.

J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, (whether alleged or proven), demands, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs arising out of or related to the settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which CMHA may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

K. The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this Contract or failure to exercise reasonable care in performing the work.

i. If the Contractor fails or refuses to repair the damage promptly, CMHA may have the necessary Work performed and charge the cost to the Contractor.

5.12.6. Vibration, Noise, and Dust Control

A. The Contractor shall provide controls/barriers for vibrations, noise, and dust control in occupied buildings as required by the construction operations.

B. The Contractor will not be permitted to exhaust or release unfiltered air, dust, construction debris, or other undesirable products into the exterior atmosphere or into occupied areas of the building.

i. CMHA may limit or stop the Work if the Contractor does not maintain proper air-quality standards.

ii. Such stoppage may result in a charge to the Contractor.

C. In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated.

i. In such spaces and as approved by CMHA, Work may be scheduled for other than normal working hours.

ii. The Contractor is cautioned that weekend or overtime work, if required, shall be performed at no additional cost.

iii. Permission to work other than standard hours shall be received from CMHA prior to the occurrence.

iv. Weekend or overtime Work shall be reflected in the Construction Progress Schedule.

D. The Contractor is responsible for vibration control and control of transmission of noise arising from the Work.

E. Principal considerations that shall be given to noise and vibrations control are:

i. Noise control in compliance with Occupational Safety and Health Administration (OSHA) shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.

ii. Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in the building and the building structure.

iii. Vibration control to provide for the maximum usefulness of the facility by keeping levels of vibration within ranges conducive to peaceful enjoyment of residential living or work or other uses for which the facility was designed

5.13. General Warranty - Materials, Equipment and Workmanship

5.13.1. The Contractor warrants to CMHA and A/E that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise.

A. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit.

B. Work, materials, or equipment not conforming to these requirements may be considered defective.

C. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.

D. If required by the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

5.13.2. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA from and against all claims, (whether alleged or proven), demands, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, arising out of or relating to the Contractor's breach of any warranty obligations.

A. The Contractor's obligation shall be joint and several.

5.13.3. Additional Warranties

A. The Contractor gives the Owner the following additional warranties:

i. If the Contractor's Work includes all or part of the exterior roofing system, provided that the A/E has designed the roofing system to be weather tight, the Contractor warrants that the roofing system will be weather tight; and

ii. If the Contractor's Work includes all or part of the exterior wall system, provided that the A/E has designed the wall system to be weather tight, the Contractor warrants that the wall system will be weather tight.

(a) Weather tight shall mean the roofing and/or wall system does not permit any infiltration of water in any form that would have any adverse effect on the Owner's operations or the Project.

5.13.4. The Contractor shall, prior to Contract Completion and as a condition precedent to final payment to Contractor, assign to CMHA all manufacturer's warranties related to the materials and labor used in the Work and further agrees to perform the Work in such manner as to preserve any and all such manufacturer's warranties and deliver to the A/E the warranties, project manual, operating procedures, and other materials related to each of the building systems and materials included in the Contractor's Work and as required by the Specifications.

5.13.5. Upon notice of the breach of any of the warranties or guarantees identified herein, or any other warranties or guarantees under the Contract Documents, the Contractor, in addition to any other requirements in the Contract Documents, shall commence to correct such breach and all damage resulting therefrom within two (2) business days from written notice thereof, thereafter use its best efforts to correct such breach and damage to the satisfaction of CMHA and A/E, and, except when an extension of time is granted in writing by CMHA, correct such breach and damage to the satisfaction of CMHA within thirty (30) calendar days of such notice, or such other time as provided in the notice; provided, however, that if such notice is given after final payment the 2-day period shall be extended to seven (7) calendar days.

A. If the Contractor fails to commence to correct such breach and damage, or to correct such breach or damage as provided above, the Owner, without prejudice to any of its other rights or remedies at law or under the Contract Documents, may correct the breach without further notice to Contractor.

B. The Contractor shall pay the Owner's reasonable costs and expenses incurred in connection with the or related to such correction and/or breach, including without limitation the Owner's administrative, legal, and consulting expenses and additional service fees of the A/E.

C. The foregoing warranties and obligations of the Contractor shall survive final payment and/or termination of the Contract and shall not be limited by any other terms contained in the Contract Documents.

D. If the Contractor fails to pay the Owner any amounts due hereunder, the Contactor shall pay the Owner, in addition to the amounts due, a late payment fee of one and one-half percent (1.5%) per month for each month or part thereof that the payments are not paid when due.

5.13.6. Contractor shall bring to or store at the Site only the materials and equipment required for the Work.

A. If possible, materials and equipment should be installed in their final positions when brought to the Site.

5.13.7. All equipment, material, and articles furnished under this Contract shall be of the most suitable grade for the purpose intended, unless otherwise specifically provided in this Contract.

A. References in the Contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition.

B. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by CMHA in writing, is equal to that named in the specifications, unless otherwise specifically provided in this Contract so long as Contractor has submitted a substitution request to CMHA.

C. If the substituted material has not been approved by CMHA in writing, the substituted material may be considered Defective Work by CMHA or A/E.

5.13.8. Approval of Equipment and materials

A. The Contractor shall obtain CMHA's approval of the machinery and mechanical and other equipment to be incorporated into the work.

i. When requesting approval, the Contractor shall furnish to CMHA the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment

ii. When required by this contract or by CMHA, the Contractor shall also obtain CMHA's approval of the material or articles which the Contractor contemplates incorporating into the work.

iii. When requesting approval, the Contractor shall provide full information concerning the material or articles.

iv. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

B. When required by the specifications or CMHA, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's expense, with all shipping charges prepaid.

i. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor's name, and the identification of the construction project for which the material or product is intended to be used.

C. Certificates shall be submitted electronically in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements.

i. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.

D. Approval of a sample shall not constitute a waiver of CMHA's right to demand full compliance with contract requirements.

i. Materials, equipment and accessories may be rejected for cause even though samples have been approved.

E. Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other Contract requirements.

i. CMHA may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples.

ii. Check tests will be made on materials delivered for use only as frequently as CMHA determines necessary to insure compliance of materials with the specifications.

iii. The Contractor will assume all costs of retesting materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.

F. After approval, samples will be kept in the Project office until completion of work.

i. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.

G. Requirements concerning lead-based paint

i. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act.

5.13.9. Substitutions

A. If the Contractor provides approved Substitutions that require changes to the Contract Documents, the Contractor shall be solely responsible for the additional costs incurred as a result, including without limitation changes to the design by the A/E.

B. CMHA shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate CMHA the following conditions:

i. The specified Basis of Design Components, Acceptable Components, or previously approved Substitutions through no fault of the Contractor are not available; or

ii. The specified Basis of Design Components, Acceptable Components, or previously approved Substitutions will not perform as designed or intended.

C. The Contractor's incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

D. If the Contractor provides an unacceptable Component, the Contractor shall be solely responsible for the costs of coordination and modification required.

5.14. Specifications and Drawings for Construction

5.14.1. The Contractor shall keep on the work site a stamped, permit set of the drawings and specifications and shall at all times give CMHA access thereto.

A. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both.

B. In case of difference between drawings and specifications, the specifications shall govern.

C. In case of a discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to CMHA, who shall promptly make a determination in writing.

D. Any adjustment by the Contractor without such determination shall be at its own risk and expenses.

E. CMHA shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

5.14.2. Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of CMHA is intended.

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

5.14.4. "Shop Drawings" means drawings, submitted to CMHA by the Contractor, subcontractor or any lower tier subcontractor, showing in detail, 1) the proposed fabrication and assembly of structural elements and 2) the installations (i.e., form, fit, and attachment details) of materials of equipment.

A. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the Contract.

B. CMHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

5.14.5. If this Contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other Contract requirements and shall indicate its approval thereon as evidence of such coordination and review.

A. Shop Drawings submitted to the A/E without evidence of the Contractor's approval may be returned for resubmission.

B. CMHA will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate CMHA's reasons therefore.

C. Any Work done before such approval shall be at the Contractor's risk.

D. Approval by the A/E shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this Contract, except with respect to approved variations.

5.14.6. If shop drawings show variations from the Contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission.

A. If the A/E approves any such variation and CMHA concurs, CMHA shall issue an appropriate modification to the Contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

5.14.7. It shall be the responsibility of the Contractor to make timely requests to CMHA for such large scale and full size drawings, color schemes, and other additional information, not already in possession, which shall be required in the planning and production of the work.

A. Such requests may be submitted as the need arises, but each such request shall be filed with ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

5.14.8. The Contractor shall electronically submit to CMHA for approval (unless otherwise indicated) all shop drawings as called for under the various headings of the specifications.

A. As required by CMHA, the Contractor, upon completing the work under this Contract, shall furnish a complete set of drawings as finally approved.

B. These drawings show all changes and revisions made up to the time the work is completed and accepted.

5.14.9. Specifications and Drawings for Construction shall be included in all Subcontracts at any tier.

A. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by Subcontractors are submitted to CMHA.

5.15. As Built Drawings

5.15.1. "As-built drawings," means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or Work as actually completed under the Contract.

A. "As-built drawings" shall be synonymous with "Record Drawings".

5.15.2. As required by CMHA, the Contractor shall provide CMHA accurate information to be used in the preparation of permanent as-built drawings.

A. For this purpose, the Contractor shall record on one set of Contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.

5.15.3. As Built Drawings shall be included in all subcontracts at any tier.

5.15.4. It shall be the responsibility of the Contractor to ensure that all As-Built Drawings prepared by Subcontractors are submitted to CMHA.

5.16. Project Document Maintenance and Submittal

A. During Construction

i. The Contractor shall maintain in good order at a secure location on the Site:

(a) A complete copy of all Contract Documents; Shop Drawings, Product Data, samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; warranties; RFIs and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines; and

(b) A set of Drawings as approved by any applicable jurisdiction and Specifications.

B. Before submitting each Contract Payment Request, the Contractor shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents.

i. Failure to record all changes may cause payment to be withheld or delayed by CMHA.

C. The Contractor shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.

D. If the Contractor uses Shop Drawings to indicate as-built conditions, the Contractor shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents.

i. The Contractor shall note related numbers where applicable.

5.16.2. Before Contract Completion

A. The Contractor, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall organize the As-Built Documents into manageable sets, bind the sets with durable paper cover sheets, and deliver the As-Built Documents to CMHA.

B. The Contractor's As-Built Documents submission shall include, but is not limited to:

i. Certificate of Occupancy;
ii. Inspection certificates for pressure piping, elevator, boiler, electrical, plumbing or piping purification, etc.
iii. Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;
iv. Operation and Maintenance Manuals, organized into suitable sets of manageable size;
v. Indexed data bound in individual binders, with pocket folders for folded sheet information and appropriate identification marked on the front and the spine of each binder;
vi. Neatly and accurately marked sets of As-Built Documents, and other Contract Documents reflecting the actual construction of the Project;
vii. Detailed Drawings reflecting the exact location of any concealed utilities, mechanical or electrical systems, and components;
viii. Assignment to CMHA of all warranties and guarantees, including the most-recent address and telephone number of any Subcontractors or manufacturers;
ix. An affidavit to certify that all Subcontractors have been paid in full for all Work performed or materials furnished for the Project;
x. A final lien waiver for both the Contractor and all Subcontractors of any tier;
xi. Final certified payroll reports; and
xii. An affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC.

C. By submitting the As-Built Documents to CMHA, the Contractor certifies that it's As-Built Documents are complete, correct, and accurate.

5.17. Temporary Buildings and Transportation of Materials

5.17.1. Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of CMHA and shall be built with labor and materials furnished by the Contractor without expense to CMHA.

A. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work.
B. With the written consent of CMHA, the buildings and utilities may be abandoned and need not be removed.

5.17.2. The Contractor shall, as directed by CMHA, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by CMHA.

A. When materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation.
B. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage.
C. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

5.18. Facilities

5.18.1. The Contractor shall provide and maintain in a clean condition:

A. Suitable facilities, including temporary facilities, equipment, services, and enclosed storage for its use at the Site;
B. Adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and
C. Adequate sanitary facilities for use by all Persons at the Site.

5.19. Progress Cleaning

5.19.1. The Contractor shall remove all waste materials, rubbish, and mud attributable to the Work in accordance with the Specifications, if applicable, and to an appropriate disposal location at, or near, the Site.

5.19.2. The Contractor shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

5.19.3. The Contractor shall remove, at the end of each working day or more frequently, as appropriate, for the Project, all waste materials and rubbish from the disposal location at, or near, the Site.

5.19.4. The Contractor shall remove, as appropriate for the Project or as the A/E or CMHA directs, any waste materials or rubbish from areas adjacent to the Project.

5.19.5. The Contractor shall dispose of waste materials, rubbish, and construction debris in a lawful manner in approved recycling facilities or landfills and record of such disposal shall be available upon written request of CMHA.

5.19.6. If the Contractor fails to clean up during the progress of the Work, CMHA may clean up on behalf of the Contractor and at the Contractor's expense.

A. If the Contractor fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, CMHA may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the Contractor's expense.

B. CMHA may deduct the cleaning costs from payments then or thereafter due the Contractor.

i. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to CMHA.

5.19.7. The Contractor shall remove excavated material and spoil to a suitable off-site location approved by CMHA.

A. If CMHA designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the Contractor shall remove such materials to the designated location.

5.20. Use of Premises

5.20.1. The Contractor shall use corridors, stairs, and elevators as designated by CMHA and only during those times that are designated by CMHA.

A. The Contractor shall exercise extreme care to not exceed the carrying capacity of elevators or damage the cab interior in any way.

5.20.2. Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

5.20.3. The Contractor shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits and the directions of CMHA.

5.20.4. Unless expressly required or approved by CMHA, no signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

5.20.5. CMHA Use of Premises / Possession Prior to Completion

A. CMHA shall have the right to take possession of or use any completed or partially completed part of the Work.

i. Before taking possession of or using any work, CMHA shall furnish the Contractor a list of items of Work remaining to be performed or corrected on those portions of the Work that CMHA intends to take possession of or use.

ii. However, failure of CMHA to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the Contract.

iii. CMHA's possession or use shall not be deemed acceptance of Work under the Contract.

B. While CMHA has such possession or use, the Contractor shall be relieved of the responsibility for:

i. The loss of or damage to the Work resulting from CMHA's possession or use, notwithstanding the terms herein;

ii. All maintenance costs on the areas occupied; and

iii. Furnishing heat, light, power, and water used in the areas occupied without proper remuneration therefore.

C. If requested by the Contractor and if prior possession or use by CMHA delays the progress of the Work or causes additional expense to the Contractor, an equitable adjustment shall be made in the Contract Sum, the Contract Time, or both, and the Contract shall be modified in writing accordingly.

5.21. Smoking and Tobacco Products

5.21.1. Smoking is not permitted at any property under construction, unless CMHA has a specifically designated area for smoking, and is not permitted within 50 feet of any entrance of a CMHA owned building.

A. This prohibition applies to new construction and rehabilitation.

B. The Contractor shall enforce these restrictions on any individual employed by the Contractor, or a Subcontractor.

5.22. Correction of the Work

5.22.1. Before Substantial Completion

A. If the Contractor provides Defective Work or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, CMHA or the A/E may issue a written notice to the Contractor and Contractor's Surety directing the Contractor to correct the Defective Work or recover schedule deficiencies.

i. Unless otherwise specified in that written notice, the Contractor shall begin to correct the Defective Work and recover the schedule deficiencies within no more than three (3) business days after CMHA issues the written notice.

B. If the Contractor fails to commence and diligently pursue correction of Defective Work or recovery of schedule deficiencies within three (3) business days of Contractor's receipt of written notice from CMHA or the A/E, CMHA may correct the Defective Work or take action to recover schedule deficiencies without giving further notice to the Contractor or Contractor's Surety.

5.22.2. During the Correction Period

A. If CMHA issues a notice during the Correction Period, CMHA may correct the Defective Work itself without giving further notice to the Contractor or Contractor's Surety if the Contractor fails to:

i. Notify CMHA in writing of the Contractor's intent to correct the Defective Work within three (3) business days after CMHA issues the notice; and

ii. Thereafter promptly commence and diligently pursue correction of Defective Work.

B. *The Correction Period:*

i. Commences in accordance with 23.1.41;

ii. Relates only to the Contractor's specific obligation and opportunity to correct the Work during the Correction Period;

iii. Does not establish a period of limitation with respect to any of the Contractor's other obligations under the Contract Documents;

iv. Has no relationship to the time within which CMHA may seek to enforce the Contract; and

v. Does not establish a period of limitation with respect to the commencement of litigation to establish the Contractor's liability under the Contract or otherwise.

C. *After the Correction Period:*

i. CMHA may correct, at the Contractor's expense, the Defective Work without giving further notice to the Contractor or Contractor's Surety if the Contractor or Contractor's surety fails to

(a) Notify CMHA in writing of the intent to correct the Defective Work; and

(b) Promptly commence and diligently pursue correction of Defective Work.

5.22.3. After Substantial Completion

A. In addition to the Contractor's other obligations under the Contract Documents, if any of the Work is found to be Defective Work after Substantial Completion, the Contractor shall correct it promptly after receipt of written notice from CMHA to do so, unless CMHA has previously acknowledged and accepted the Defective Work in writing.

B. CMHA may send a copy of the written notice to the Contractor's Surety, but are not obligated to do so.

5.22.4. Emergency Correction of Defective Work

A. Notwithstanding any other provision of the Contract, if in CMHA's opinion the Defective Work presents a threat of imminent harm or danger to people, property, or the environment, CMHA may order the Contractor to immediately correct Defective Work or CMHA may correct the Defective Work, at Contractor's expense, itself without any prior notice to the Contractor or Contractor's Surety.

5.22.5. Responsibility for Costs of Correction

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, (whether alleged or proven), demands, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, associated with the correction of Defective Work and the recovery of schedule deficiencies.

B. Those costs and damages may include, but are not limited to:

i. The related fees and charges of contractors, engineers, architects, attorneys, and other professionals; and

ii. The cost of correcting or replacing adjacent work.

C. CMHA may deduct those costs and damages from payments then or thereafter due the Contractor.

i. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to CMHA.

6. ARTICLE VI SUBCONTRACTORS

6.1. Evaluation and Approval

6.1.1. When submitting its Bid, the Contractor shall submit a Subcontractor and Material Supplier Declaration form through which the Contractor identifies its Subcontractor.

A. Provide list of subcontractors and material supplier and equipment with bid.

6.1.2. Within ten (10) calendar days after the Notice to Proceed, the Contractor shall submit to CMHA, an **updated** Subcontractor and Material Supplier Declaration form.

6.1.3. If CMHA rejects any proposed Subcontractor, the Contractor shall propose a replacement Subcontractor with no adjustment of the Contract Sum.

A. The proposed replacement will also be evaluated by CMHA.

6.1.4. The Contractor's failure to timely submit the information regarding a proposed Subcontractor may result in withholding payment to Contractor.

6.2. Suspension/Debarment

6.2.1. The Contractor shall not enter into any Subcontract with any Subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting program by any agency of the United States Government or the State of Ohio.

6.3. Contractor's Responsibility

6.3.1. The Contractor shall be as fully responsible for the acts or omissions of its Subcontractors and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor, and is responsible for scheduling and coordinating the Work of the Subcontractors.

6.3.2. The Contractor is fully responsible for any delay, interference, disruption, or hindrance attributable to the Contractor's Subcontractors.

6.3.3. The Contractors shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.

6.3.4. The Contractor shall bind its Subcontractors to the terms and conditions of the Contract Documents, so far as applicable to the Work of the Subcontractor, and shall not agree to any provision, which seeks to bind CMHA with terms inconsistent with or at variance from the Contract Documents.

6.3.5. The Contractor will not be relieved of its full responsibility for Subcontractors and their performance of the Work by:

A. The participation of CMHA, HUD, or the A/E in the processes described under ARTICLE VI SUBCONTRACTORS or other related provisions of the Contract Documents; or

B. CMHA's rejection of a Subcontractor or failure to reject a Subcontractor.

6.4. Mandatory Contract Provisions/Forms

6.4.1. The Contractor shall insert appropriate clauses in all Subcontracts to bind Subcontractors to the terms and conditions of this Contract insofar as they are applicable in the work of Subcontractors.

6.4.2. CMHA reserves the right to reassign accepted agreements

6.4.3. Nothing contained in this Contract shall create any contractual relationship between any Subcontractor and CMHA or between the Subcontractor and HUD.

6.4.4. The Contractor must include in the contract with its Subcontractors the applicable labor provisions and prevailing wages as was provided to the Contractor by CMHA.

6.4.5. No less than ten (10) calendar days before the Work is to be performed by a Subcontractor, or within a shorter period as mutually agreed by the Contractor and CMHA, the Contractor shall submit to CMHA a complete copy of the executed Subcontract between the Contractor and Subcontractor.

6.5. Replacement of Subcontractors

6.5.1. The Contractor shall not replace any Subcontractor after execution of the Subcontract without prior written approval of CMHA.

6.5.2. The Contractor shall not add any subcontractors after the Contract Execution without updating the Material supplier and subcontractor form or prior to written approval of CMHA.

6.6. Contingent Assignment of Subcontract

6.6.1. The Contractor hereby assigns its Agreement with each Subcontractor to CMHA provided that the assignment is effective only after termination of the Contract by CMHA and only for those agreements that CMHA accepts by notifying Contractor and applicable Subcontractor in writing.

6.7. Prompt Payment of Subcontracts

6.7.1. The Contractor shall make payments to the Subcontractor in accordance with Applicable Law, including ORC that include, without limitation, the requirements under 6.7 - Prompt Payment of Subcontracts.

6.7.2. If a Subcontractor requests payment in time to allow the Contractor to include the request in its Contractor Payment Application Request the Contractor, within ten (10) calendar days after receipt of payment from CMHA, shall pay to the:

A. Subcontractor, an amount equal to the percentage of completion of the Subcontractors contract allowed by CMHA for the amount of labor or work performed;

B. Material Supplier, an amount that is equal to all or a portion of the invoice for materials which represents the materials furnished by the material supplier

6.7.3. The Contractor may reduce the amount paid by any retainage provision contained in the Contract, invoice, or purchase order between the Contractor and Subcontractor and may withhold amounts that may be necessary to:

A. Resolve disputed liens or claims involving the Work or labor performed by the Subcontractor; or

B. Account for failure of the Subcontractor to perform its obligations under its agreement with the Contractor required under ORC

6.7.4. Labor Payments

A. Within ten (10) calendar days of receipt of payment from CMHA, the Contractor shall pay Subcontractor in the following manner:

i. Partial payments to the Subcontractor for labor performed under either a Unit Price or lump sum Subcontract shall be made at the rate of 92 percent of the amount invoiced through the Subcontractor's request for payment that shows the Work of the Subcontractor is 50% complete.

ii. After the Work of the Subcontractor is 50 percent complete, as evidenced by payments of at least 50 percent of the total amount due under the Subcontract, no additional funds shall be retained from payments for labor.

6.7.5. Material Payment

A. Required by ORC for payment to Contractor by CMHA

i. The Contractor shall pay the Subcontractor at the rate of 95% of the invoice cost, not to exceed the scheduled value in a unit price or lump sum Subcontract, for materials delivered to the Site, or other offsite storage location approved by CMHA, provided the Subcontractor provides the information required with its request for payment.

ii. The Contractor shall pay the Subcontractor at the rate of 100% of the scheduled value for materials incorporated into the Project.

6.7.6. If Contractor fails to comply with the payment provisions set forth, the Contractor shall pay to the applicable Subcontractor, in addition to any payment due, interest in the amount of 18 percent per annum of the payment due, beginning the eleventh day following the receipt of payment from CMHA and ending on the date of full payment of the payment due plus interest.

6.7.7. If CMHA receives a Claim Affidavit from a Subcontractor, Subcontractor shall proceed in accordance with Applicable Law, including Ohio Revised Code.

6.7.8. Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including Ohio Revised Code.

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

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

A. Placing qualified small and minority businesses and women's business enterprises on solicitations lists;

B. Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential resources

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

6.8.2. Establishing delivery schedule, where the requirements of the Contract permit, which encourages participation by small and minority businesses and women's business enterprises; and

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

7. ARTICLE VII PAYMENTS

7.1. CMHA Obligation

7.1.1. CMHA shall pay the Contractor the price as provided in the Contract.

7.2. Forms

7.2.1. Unless expressly authorized to the contrary, Contractor must use appropriate CMHA forms.

7.3. Step One – Pencil Application

7.3.1. The purpose of a pencil application is assisting the Contractor in identifying any potential error or omission in the pay application.

A. If submitted timely (as set forth below) CMHA will review and help identify any potential issues. However, the CMHA Construction Administrator's approval or suggestion does not guarantee approval of the payment application by the CMHA.

7.3.2. The Contractor shall initially submit a Pencil Application by no later than the 15th of each month.

A. The CMHA Construction Administrator will review the Pencil Application, and make any suggested corrections and return to the Contractor in approximately two (2) business days.

7.3.3. The Contractor shall then submit the final payment application to the CMHA Construction Administrator by the 23rd of each month.

7.3.4. Failure to submit a pencil application may result in a significant delay in payment.

7.4. Progress Payments

7.4.1. CMHA shall make progress payments approximately every forty-five (45) calendar days as the work proceeds on estimates of Work accomplished which meets the standards of quality established under the Contract, as approved by CMHA.

A. Subject to CMHA's written determination and approval more frequent payments may be made to contractors which are qualified as small businesses.

7.4.2. Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by CMHA, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining progress payments.

A. The breakdown shall be approved by CMHA and must be acceptable to HUD.

B. If the contract covers more than one Project, the Contractor shall furnish a separate breakdown for each.

C. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the Contract Sum.

D. The Contractor shall prorate its overhead and profit over the construction period of the Contract.

7.4.3. The Contractor shall submit, on forms provided by CMHA, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the Contract Sum.

A. Such estimates shall be submitted not later than nine (9) calendar days in advance of the date set for payment and are subject to correction and revision as required.

B. The estimates must be approved by the CMHA prior to payment.

C. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.

D. Each payment application should include affidavits for the Contractor, Sub Contractors and Material Suppliers. Lien waivers should be submitted as proof of payment for the prior payment application affidavits.

7.4.4. Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made:

A. I hereby certify, to the best of my knowledge and belief, that:

i. The amounts requested are only for performance in accordance with the specifications, terms,

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

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

7.5. Allowances

7.5.1. The Contract Sum includes the Allowances (if any) identified in the Contract.

7.5.2. All allowances include the costs to the Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes.

7.6. Unit Prices

7.6.1. Where the Contract provides that all or a part of the Work is to be Unit Price Work, initially that Contract Sum will include for all Unit Price Work:

A. An amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract.

B. The Contractor's fee on that Unit Price Work.

7.6.2. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Sum.

A. CMHA will determine the actual quantities and classifications of Unit Price Work performed by the Contractor.

7.6.3. Before final payment, an appropriate Change Order will be issued to reconcile the Contract Sum so that it reflects actual amount due to the Contractor on account of Unit Price Work actually performed.

7.7. Schedule of Values

7.7.1. Within seven (7) calendar days after issuance of Letter of Intent or other period as mutually agreed by the Contractor and CMHA, the Contractor shall submit to CMHA a Schedule of Values on a form provided for by CMHA, with separate amounts shown for labor and materials for each branch of Work.

A. The Contractor shall clearly indicate on the Schedule of Values, but is not necessarily limited to, the cost of payment and performance bond(s), permit costs, the amount(s) allocated, including separate items for the Contractor's Fee (Overhead and Profit), and the amount(s) of labor and materials, as appropriate.

7.7.2. The grand total shown on the Schedule of Values shall equal the total Contract Sum.

7.7.3. CMHA may use the approved Schedule of Values to determine cost or credit to CMHA resulting from any change in the Work.

A. The first items shall be a breakdown of the General Conditions Cost.

B. The amounts for labor and materials shall accurately reflect the cost for each item.

i. The Contractor shall clearly indicate on the Schedule of Values, the amount(s) allocated, including separate items for Contractor's Fee (overhead and profit), for each Section 3 certified Business used in the performance of the Work.

ii. Contractor's Fee shall be included in the totals for labor and materials.

C. If the material allocation exceeds 55 percent of the Contract Sum, the Contractor shall provide, upon request, sufficient information to support the higher percentage.

D. Subcontract Work shall show amounts for labor and materials.

i. Fringe benefits shall be shown as a part of labor costs.

E. When more than one major structure is included in the Work, the Contractor shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.

F. The line items shall be coordinated with line items in the Construction Progress Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

G. Mechanical and electrical Work shall be included in separate line items for all major pieces of equipment, and group smaller equipment items by type.

H. Line items shall be included for each Allowance, Punch List Work, Project Record Document Submittals, delivery of attic stock, and specified demonstrations and training.

7.7.4. CMHA may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if CMHA determines that it conforms to section 7.7

7.7.5. No payment shall be made until the CMHA has approved the Contractor's Schedule of Values.

7.8. Labor Payments/Retainage

7.8.1. Partial payments to the Contractor for labor performed under either a Unit Price or lump sum Contract shall be made at the rate of 90 percent of the amount invoiced through the Contractor Payment Request.

7.9. Material Payments/Retainage

7.9.1. CMHA shall pay the Contractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

7.9.2. CMHA shall pay the Contractor at the rate of 90 percent of the invoice cost, not to exceed the scheduled value in a Unit Price or lump sum Contract, for materials delivered to the Site, or other off-Site storage location approved by CMHA provided the Contractor provides the following information with the Contractor Payment Request:

A. A list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost; and

B. A certification of materials stored off-site, prepared by the Contractor and signed by CMHA to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project.

7.9.3. CMHA shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

7.9.4. When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of CMHA.

7.9.5. CMHA may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the Contractor for credit of an amount proportionate to the value of the extra materials.

7.9.6. Release of Retainage

A. When the Contractor has achieved Substantial Completion of all Work, and there is no other reason to retain funds; upon request of the Contractor, the funds retained in connection with that Work shall be released and paid to the Contractor, withholding only that amount necessary to assure faithful completion in the sole discretion of CMHA, including but not limited to compliance with CLOSEOUT.

7.10. Payments Withheld

7.10.1. CMHA may withhold funds from or may assess Liquidated Damages against a Contractor Payment Request.

7.10.2. CMHA may decline to approve any Contractor Payment Request or part thereof, or nullify any previous Contractor Payment Request, in whole or in part, to the extent necessary in CMHA's sole opinion to protect CMHA from loss because of:

A. Defective Work not remedied;

B. Overpayment of any schedule of values line item without prior approval of related change order by Contracting Officer;

C. Overpayment due to calculation error;

D. Damage caused by the Contractor;

E. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

F. Reasonable evidence that the Work will not be completed within the Contract Times, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;

G. Failure to comply with Applicable Law including, but not limited to, the requirements of ORC.

7.11. Payment Request

7.11.1. The Contractor and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all applicable requirements of ORC, and to certify that all of its Subcontractors have been paid in full for all Work performed or materials furnished under the Contract.

7.11.2. CMHA shall pay Contractor in approximately forty-five (45) calendar days from the date of acceptance of the Payment Request.

7.11.3. The Contractor, as a condition precedent to final payment, shall complete all requirements of the Contract Documents.

7.11.4. Acceptance of final payment by the Contractor or a Subcontractor constitutes the payee's waiver of all claims against CMHA expect those previously made in writing and identified by that payee as unsettled at the time of the final Contractor Payment Request.

8. ARTICLE VIII CONTRACT MODIFICATIONS

8.1. Changes in the Work

8.1.1. Except as provided, no order, statement or conduct of CMHA shall be treated as a change or entitle the Contractor to an equitable adjustment.

8.1.2. Only CMHA's Contracting Officer has authority to modify any term or condition of this Contract.

A. Any Contract modification shall be authorized in writing.

8.1.3. The Contracting Officer may modify the contract unilaterally:

A. Pursuant to a specific authorization stated in a Contract clause; or

B. For administrative matters which do not change the rights or responsibilities of the parties.

8.1.4. All other Contract Modifications shall be in the form of supplemental agreements signed by the Contractor and CMHA.

A. If notice of any change affecting the Contract is required by the provision of any Bond, notice is the Contractor's responsibility.

8.1.5. Except as expressly stated herein, the Contractor's failure to obtain prior written authorization from CMHA for a change in the Work constitutes a waiver by the Contractor of an adjustment to the Contract Sum or Contract Time or both.

8.1.6. The Contractor shall perform all changes in the Work under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly with the change unless otherwise provided in the Change Order or order for a minor change in the Work.

8.1.7. HUD Approval

A. When a proposed modification requires the approval of HUD prior to its issuance; such modification shall not be effective until the required approval is received by CMHA.

8.2. Change Order

8.2.1. CMHA may order changes in the Work without invalidating the Contract and such change in Work may be accomplished, by Change Order or an order for a minor change in the Work.

8.2.2. CMHA may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Contract including, but not limited to, changes:

A. In the specifications (including drawings and designs);

B. In the method or manner of performance of the Work;

C. CMHA-furnished facilities, equipment, materials, services, or site; or

D. Directing the acceleration of the Work.

8.2.3. If any change causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the Work under this contract, whether or not changed by any such order, CMHA shall make an equitable adjustment and modify the Contract in writing.

A. However, except for an adjustment based on defective specifications, no proposal for any change shall be allowed for any costs incurred more than twenty (20) calendar days before the Contractor gives written notice as required.

B. In the case of defective specifications for which CMHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specification.

8.2.4. The Contractor must assert its right to an adjustment within thirty (30) calendar days after:

A. Receipt of a written change order, or

B. The furnishing of a written notice by submitting a written statement describing the general nature and the amount of the proposal.

8.2.5. If the facts justify it, CMHA may, in its sole discretion, extend the period for submission.

8.3. Change Order Directive

8.3.1. A Change Order Directive is a written order prepared by CMHA directing a change in the Work and may, if necessary, state a proposed basis for adjustment, if any, of Contract Sum or Contract Time, or both.

8.3.2. A Change Directive shall be used to direct a change in the Work in the absence of a total agreement on the terms of a Change Order and shall only be used in the absence of total agreement on the terms of a Change Order concerning the associated change of the Work.

8.3.3. Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work involved.

8.3.4. Within fourteen (14) calendar days after receiving the Change Directive, the Contractor shall respond with a Change Order Proposal for adjustment of the Contract Sum or Contract Time or both.

8.3.5. If the Contractor does not respond to the Change Directive as required above, CMHA shall determine the adjustments, if any, of the Contract Sum and Contract Times.

A. If the Contractor does not agree with CMHA's determination, the Contractor shall initiate a claim within ten (10) calendar days of the date on which CMHA issues the determination, and the Contractor's failure to do so shall constitute an irrevocable waiver the Claim.

8.3.6. If CMHA and the Contractor agree on the adjustment of the Contract Sum and/or Contract Time associated with the Change Order Directive, CMHA shall prepare an appropriate Change Order.

8.4. Change Order Procedure

8.4.1. Any Change Order Request must be in writing and submitted by the Contractor to CMHA in accordance with the Notice Provision.

8.4.2. The Contractor's cost of preparing and providing Proposals is included in the Contract Sum.

8.4.3. If CMHA Agrees with Change Order Proposal:

A. CMHA shall prepare each Change Order, attach the supporting documentation, and issue the Change Order to the Contractor for signature.

B. Within three (3) business days after issuance of Change Order to Contractor, Contractor must sign the Change Order and resubmit to CMHA.

C. Change Order is not approved until CMHA's Contracting Officer signs the Change Order.

8.4.4. If CMHA disagrees with Change Order Proposal or Contracting Officer doesn't Approve Change Order:

A. CMHA will notify Contractor in writing with reasons; and

B. Contractor has fourteen (14) calendar days to modify the Change Order Request or invoke ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE.

8.4.5. Failure to reach an agreement on any proposal shall be a dispute under ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE herein.

A. Nothing in Change Order Procedure, however, shall excuse the Contractor from proceeding with the contract change pursuant to an issued Change Directive.

8.5. Change Order Proposal

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

A. Direct Costs:

i. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost)

ii. Transportation and delivery costs associated with materials

iii. Labor breakdowns by hours or unit costs (identified with specific Work to be performed)

iv. Construction equipment exclusively necessary for the change

v. Costs of preparation and/ or revision to shop drawings resulting from the change

vi. Worker's Compensation and Public Liability Insurance

vii. Employment taxes under FICA and FUTA

viii. Bond Costs

B. Indirect Costs:

i. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.

C. Profit:

i. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

ii. The allow-ability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms, in effect on the date of this Contract.

iii. The Contractor shall not be allowed a profit on the profit received by any subcontractor.

iv. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs.

v. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the Work.

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

8.5.3. CMHA shall act on proposals within thirty (30) calendar days after their receipt, or notify the Contractor of the date such action will be taken.

8.5.4. By signing a Change Order, the Contractor irrevocably certifies that the elements of a Change Order described herein are completely satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Times, or both, at a later date with respect to the associated change in the Work, including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with in one or more of the other changes in the Work.

8.5.5. No Proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior written authorization from CMHA's Contracting Officer. When the Change Order is signed by the Contractor and CMHA's Contracting Officer, the fully executed Change Order modifies the Contract Documents and authorizes and directs the Contractor to proceed, and the Contractor shall promptly proceed with the associated change in the Work.

8.6. Differing Site Conditions

8.6.1. The Contractor shall promptly, and before the conditions are disturbed, give a written notice to CMHA of:

A. Subsurface or latent physical conditions at the site which differ from those indicated in this contract; or

B. Unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract.

i. Written notice of the condition shall be given immediately to CMHA.

C. The Contractor's failure to give notice of the Differing Site Condition as required shall constitute an irrevocable waiver of any associated claim.

8.6.2. CMHA shall investigate the site conditions promptly after receiving the notice.

A. Work shall not proceed at the affected site, except at the Contractor's risk, until the Contracting Officer has provided written instructions to the Contractor.

B. If the conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, performing any part of the Work under this Contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to CMHA within ten (10) calendar days after receipt of such instructions and, in any event, before proceeding with the work.

C. An equitable adjustment in the Contract price, the delivery schedule, or both shall be made under this.

8.6.3. No request by Contractor for an equitable adjustment to the Contract under Differing Site Conditions shall be allowed, unless the Contractor has given the written notice required; provided that the time prescribed for giving written notice may be extended by CMHA.

8.6.4. If CMHA determines that the Contractor has not encountered a Differing Site Condition and the Contractor does not agree with that determination, the Contractor must initiate a Claim within ten (10) calendar days of the date that CMHA issues its determination.

8.7. Minor Changes in the Work

8.7.1. CMHA may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents.

A. Those changes shall be effected by written order issued to the Contractor.

8.7.2. The Contractor shall promptly carry out each order for a minor change in the Work if the Contractor agrees that the order does not involve adjustment of the Contract Sum and Contract Times.

8.7.3. If the Contractor reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of an order for a minor change in the Work, the Contractor, within three (3) business days after receiving the order, shall give CMHA written notice of the Contractor's position, and not proceed with the subject Work without first receiving a Change Order related to it.

8.7.4. The Contractor waives its right to an adjustment of the Contract Sum or Contract Times on account of an order for a minor change in the Work by:

A. Starting the Work that is the subject of the order for a minor change in the Work; or

B. Failing to give the notice described within three (3) business days after receiving the order for a minor change in the Work.

8.8. Change Order Cost or Credit Determination

8.8.1. General

A. The maximum cost or credit resulting from a change in the Work shall be determined as described below.

i. Proposals shall include the information required.

ii. A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order.

iii. The maximum cost or credit includes all compensation for impact costs.

(a) Additional costs for impacts shall not be allowed.

B. The Contractor shall not assign any portion of the Work to another Person whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead or profit.

C. CMHA may require notarized invoices for material costs and may audit the records of the Contractor and Subcontractors.

D. For each change in the Work, the Contractor shall furnish a detailed Proposal itemized on the Proposal Worksheet Summary Form published by CMHA through which the Contractor shall document the related changes in the Contract Sum.

i. Any Subcontractor pricing shall also be itemized on the Proposal Worksheet Summary Form.

E. Section 8.8.2 Pricing Criteria establishes the exclusive and maximum amount that CMHA shall pay for any Change Order, including, but not limited to, all amounts for interference with, delay, hindrance, disruption, or impact of the Work

i. These Pricing Criteria also govern the value of deduct Change Orders and the Contractor's entitlement to additional compensation or damages through the Claims and dispute resolution processes on account of changes in the Work.

ii. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed in - Pricing Criteria**.**

8.8.2. Pricing Criteria

A. Contractor Personnel Costs

i. The Contractor's on-Site management (including supervision and administrative personnel) are not subject to State or Federal Prevailing Wage Rates.

ii. These costs will be calculated on an hourly basis according to the rates acceptable to CMHA.

iii. In no event will the Contractor be entitled to an increase in the Contract Sum on account of Contractor Personnel Costs unless the Contractor actually incurs additional Contractor Personnel Costs solely on account of the associated change in the Work.

B. Labor

i. Field labor directly involved in the Work based upon the actual rate of pay to the worker.

ii. If the Project is subject to payment of prevailing wage rates, field labor shall be paid according to the applicable classification of labor as established in the applicable prevailing wage determination.

iii. In no event will the Contractor be entitled to an increase in the Contract Sum on account of labor costs unless the Contractor actually incurs additional labor costs solely on account of the associated change in the Work.

iv. Under no conditions will the increase exceed those additional labor costs the Contractor actually incurs.

v. The cost for supervision above the level of working forepersons (such as general forepersons, superintendent, project manager, etc.) is included in the adjustmentContractor Personnel Costs.

C. Fringes

i. Fringe benefit credit for labor is only allowable for prevailing wage fringe benefits including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans.

ii. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item.

iii. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

D. Allowable Payroll Expenses

i. Allowable payroll expenses for labor including payroll taxes as well as other benefits that are required by Applicable Law, shall each be a separate line item.

E. Equipment Rentals

i. All charges for certain non-owned heavy or specialized equipment at up to 100 percent of the documented rental cost

ii. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance and weather delays shall not be allowed.

iii. Contractor shall submit copies of actual paid invoices to substantiate rental costs.

F. Owned Equipment

i. All charges for certain heavy or specialized equipment owned by the Contractor or Subcontractor performing the Work at up to 100 percent of the cost listed by the current edition of the Associated Equipment Distributors' *AED Green Book* heavy equipment rental rates.

ii. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc.

iii. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing.

iv. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

G. Trucking

i. A reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment

ii. Charges for use of a pick-up truck shall not be allowed.

H. Materials

i. The actual cost (including all discounts, rebates or related credits) of all materials incorporated into the changed Work

ii. Documentation shall show costs, quantities, or Unit Prices of all items, as appropriate.

iii. The cost or credit for reusable materials shall be limited to 33 percent of the material cost for each use.

I. Contractor's General Conditions Costs

i. The Contractor's General Conditions Costs to the extent attributable to an associated change in the Contract Time for achievement of Final Acceptance resulting from the change in Work

ii. In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to **(1)** the sum of the General Conditions Costs line items in the Contractor's Schedule of Values approved by CMHA, **(2)** divided by the total number of days of the original Contract Time for achievement of Final Acceptance.

iii. The Contractor shall:

(a) Exclude the bond premium from the Schedule of Values for the purposes of the calculation; and

(b) Include the actual adjustment of the Bond Premium attributable to an associated change in the Contract Sum.

iv. If the Contractor purchases Builder's Risk insurance for the Project, the Contract shall:

(a) Exclude the Builder's Risk insurance premium from the Schedule of Values for the purposes of the calculation; and

(b) Include the actual adjustment of the Builder's Risk insurance premium attributable to an associated change in the Contract Sum.

J. Subcontractor Overhead and Profit

i. Adjustment of the Contract Sum on account of a change in Subcontractor-performed Work shall include the Subcontractor's aggregate overhead and profit allowance equal to 15 percent of the sum of the Subcontractor's costs that are associated with that changed Work.

ii. The allowance applies to each Subcontractor tier.

iii. The allowance covers:

(a) The costs required to schedule and coordinate the Work
(b) Telephone
(c) Telephone charges
(d) Facsimile
(e) Telegrams
(f) Postage
(g) Photos
(h) Photocopying
(i) Hand tools
(j) Simple scaffolds (one level high)
(k) Tool breakage
(l) Tool repairs
(m) Tool replacement
(n) Tool blades
(o) Tool bits
(p) Home office estimating and expediting
(q) Home office clerical and accounting support
(r) Home office labor (management, supervision, engineering)
(s) All other home office expense, legal services, travel, and parking expenses

iv. An exception is allowed for shop or engineering labor, which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off-site.

(a) Recovery for these matters shall be allowed on an hourly basis.

v. An exception is allowed for field supervision labor, for those portions of the Change Order Work that will be performed, or was performed, at times when the superintendent is not required to be on site, including but not limited to overtime hours due to acceleration and\ extensions of the Contract Times.

(a) Recovery for this matter will be allowed on an hourly basis.

K. Contractor's Fee

i. Adjustment of the Contract Sum on account of a change in the Work shall include an allowance for the Contractor's Fee equal to 10 percent of the sum of the costs that are associated with that changed Work.

L. Miscellaneous

i. Adjustment of the Contract Sum on account of a change in Work may include the following costs with no allowance for Contractor's Fee or Subcontractor overhead and profit.

ii. The premium portion only for approved overtime (labor and fringes)

iii. The straight time portion is included.

8.8.3. Costs that shall not be reimbursed for Change Order Work include the following

A. Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds

B. Employee profit sharing

8.9. Time Extension

8.9.1. Every adjustment of the Contract Times associated with any change in the Work shall be determined as provided herein, which establishes the Contractor's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, or disruption of the Work.

8.9.2. This also governs time adjustments for deduct Change Orders and the Contractor's entitlement to additional time through the claims and dispute resolution processes on account of changes in the Work.

8.9.3. The Contractor shall substantiate all changes in the Contract Times with:

- **A.** A written description of the nature of the interference, disruption, hindrance or delay;
- **B.** Identification of Persons and events responsible for the interference, disruption, hindrance or delay;
- **C.** Date, or anticipated date, of commencement of the interference, disruption, hindrance or delay;
- **D.** Identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance or delay, or new activities created by the interference, disruption, hindrance or delay and the relationship with existing activities;
- **E.** Anticipated duration of the interference, disruption, hindrance or delay and of any remobilization period;
- **F.** Specific number of days of extension requested and specific number of days for remobilization requested;
- **G.** Recommended action to avoid or minimize any future interference, disruption, hindrance or delay; and
- **H.** A detailed written proposal for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.

8.9.4. A Change Order may authorize extension of the Contract Time for specific elements, while maintaining milestone dates for unaffected elements.

- **A.** Such a Change Order may also authorize an appropriate adjustment to Liquidated Damages.

8.9.5. Critical Path

- **A.** Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected.

8.9.6. A Change Order granting a time extension may provide that the Contract Times shall be extended for only elements so interfered with, disrupted, hindered, or delayed and related remobilization and that shall not be altered and may further provide for adjustment of Liquidated Damages.

9. ARTICLE IX CONSTRUCTION CLOSEOUT

9.1. Final Cleaning

9.1.1. Before requesting the Substantial Completion inspection of the Work, the Contractor shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to an acceptable condition so that upon Substantial Completion, the premises are ready for occupancy by CMHA.

9.1.2. If the Contractor performs any Work after final cleaning, the Contractor shall clean the affected area as provided above so that upon Substantial Completion, the premises are ready for occupancy by CMHA.

9.1.3. Final cleaning shall be done to the reasonable satisfaction of CMHA.

9.2. Inspection and Construction of the Work

9.2.1. The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the Contract conforms to contract requirements.

A. All work is subject to CMHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract.

9.2.2. CMHA inspections and tests are for the sole benefit of CMHA and do not:

A. Relieve the Contractor of responsibility for providing adequate quality control measures;

B. Relieve the Contractor of responsibility for loss or damage of the material before acceptance;

C. Constitute or imply acceptance; or

D. Affect the continuing rights of CMHA after acceptance of the completed work.

9.2.3. The presence or absence of the CMHA inspector does not relieve the Contractor from any Contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer's written authorization.

A. All instructions and approvals with respect to the work shall be given to the Contractor by CMHA.

9.2.4. The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by CMHA.

A. CMHA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary.

B. CMHA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size and performance tests shall be performed as described in the Contract.

9.3. Routine Inspections

9.3.1. CMHA may conduct routine inspections of the construction Site on a daily basis.

9.3.2. The Contractor shall, without charge, replace or correct Work found by CMHA not to conform to contract requirements, unless Contracting Officer decides that it is in its interest to accept the Work with an appropriate adjustment in Contract Sum.

A. The Contractor shall promptly segregate and remove rejected material from the premises.

9.3.3. If the Contractor does not promptly replace or correct rejected Work, CMHA may:

A. By Contract or otherwise, replace or correct the Work and charge the cost to the Contractor; or

B. Terminate for default the Contractor's right to proceed.

9.3.4. If any work requiring inspection is covered up without approval of CMHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor.

A. If at any time before final acceptance of the entire work, CMHA considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material.

B. If such Work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction.

C. If, however, such work is found to meet the requirements of the Contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

9.4. Substantial Completion

9.4.1. Contractor's Punch List

A. When the Contractor considers the Work, or a designated portion thereof, Substantially Complete the Contractor shall inspect the Work and prepare a list of Defective Work and incomplete or unacceptable Work ("Contractor's Punch List").

B. The Contractor shall list all items of Work not in compliance with the Contract Documents, including items the Contractor is requesting to be deferred.

i. The Contractor shall proceed to correct all items listed on the Contractor's Punch List and certify that the incomplete items listed on the Contractor's Punch List are to its knowledge an accurate and complete list by signing the Contractor's Punch List.

ii. The Contractor's failure to include an item on the Contractor's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

iii. The Contractor shall submit the signed Contractor's Punch List to CMHA together with a request for a Substantial Completion inspection of the Work.

9.4.2. Substantial Completion Inspection

A. The Contractor shall notify CMHA, in writing, as to the date when in its opinion all or a designated portion of the Work will be substantially completed and ready for inspection.

i. If CMHA and/or the A/E determine that the state of preparedness is as represented, CMHA will promptly arrange for the inspection.

ii. Unless otherwise specified in the Contract, CMHA shall accept, as soon as practicable after completion and inspection, all work required by the Contract or that portion of the Work that CMHA determines and designates can be accepted separately.

iii. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or CMHA's right under any warranty or guarantee.

B. Within three (3) business days after receipt of the request for the Substantial Completion inspection of the Work, CMHA shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

i. Within seven (7) calendar days after its acceptance of the Contractor's request, CMHA and/or the A/E shall conduct the Substantial Completion inspection to determine whether the Work, or designated portion, is in conformity with the Contract Documents and Substantially Complete.

ii. If CMHA and/or the A/E determines that the Work is Substantially Complete, within three (3) business days after the Substantial Completion inspection, CMHA and/or the A/E shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and include a list of Defective, incomplete, or unacceptable Work ("CMHA's Punch List").

iii. CMHA's Punch List shall include:

(a) The items on the Contractor's Punch List that are not yet completed or corrected as of the date of the Substantial Completion inspection; and

(b) Comments from CMHA regarding the Punch List and other issues related to the Project.

iv. CMHA shall submit the Certificate of Substantial Completion to the Contractor for their written acceptance.

(a) Upon their acceptance and consent of the Contractor's Surety, and subject to CMHA's right to withhold payment, CMHA shall release retainage.

v. CMHA and/or the A/E's failure to include an item on CMHA's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

vi. If CMHA subsequently determines that the Work is not Substantially Complete, CMHA may request compensation for related expenses.

(a) CMHA may deduct the additional expenses from payments then or thereafter due the Contractor.

(b) If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to CMHA. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, (whether alleged or proven), demands, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, associated with the failure of the Contractor to timely and properly complete the Punch List items.

9.4.3. Completion of Punch List Items

A. The Contractor shall complete all items on the CMHA's Punch List prior to date forContract Completion.

B. After completing all items on the CMHA's Punch List, the Contractor shall provide a written request for Final Inspection of the Work.

i. If Work on the Punch List cannot be timely completed, the Contractor shall submit a change order requestMODIFICATIONS.

ii. Within three (3) business days after receipt of the request for the Final Inspection of the Work, CMHA and/or the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.

iii. If multiple inspections of items on CMHA's Punch List are required due to the Contractor's failure to properly and timely complete them, the Contractor shall pay any additional costs incurred by the A/E and CMHA resulting from any attendant delay.

(a) CMHA may deduct those additional costs from payments then or thereafter due the Contractor.

(b) If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to CMHA. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, (whether alleged or proven), demands, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, related to multiple inspections by CMHA of items on the Punch List due to the Contractor's failure to properly and timely complete the Punch List.

9.5. Demonstration and Training, Operating Appurtenances

9.5.1. The Contractor, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall perform demonstration and training of CMHA's maintenance personnel as specified in the Contract Documents.

9.5.2. The Contractor, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall organize and submit operating appurtenances and loose items related to operation and maintenance of the completed Project to CMHA, including, but not limited to:

A. Keys to door and window hardware, panels, and other devices not directly provided to CMHA from the manufacturer;

B. Operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

C. Extra materials (e.g., attic stock).

9.6. Acceptance of Defective Work

9.6.1. Defective Work may only be knowingly accept by CMHA in writing instead of CMHA requiring its removal or correction, in which case the Contract Sum must be equitably reduced to account for the reduction in benefit of the Work received by CMHA on account of the Defective Work.

A. CMHA may only accept Defective Work though a deduct Change Order that makes explicit reference to Acceptance of Defective Work

9.6.2. None of the following will constitute acceptance of Defective Work, a release of the Contractor's obligation to perform the Work in accordance with the Contract, or a waiver of any rights set forth in the Contract or otherwise provided by Applicable Law:

A. Observations or inspections by CMHA or the A/E;
B. The making of any payment;
C. Substantial Completion or the issuance of a Certificate of Substantial Completion;
D. Partial Occupancy and CMHA's use or occupancy of the Work or any part of it;
E. Contract Completion or the issuance of a partial or final Certificate of Contract Completion;
F. Any review or approval of a submittal;
G. Any inspection, test, or approval by other Persons; or
H. Any correction of Defective Work by CMHA.

9.7. Building Commissioning

9.7.1. If the Project scope includes building commissioning, the Contractor shall participate in the Commissioning Process, as prescribed in the Contract Documents.

9.7.2. The Contractor shall permit the A/E, CMHA, or a third-party Commissioning Agent ("CxA") if applicable, access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Substantial Completion.

9.7.3. The A/E, CMHA, or CxA if applicable, shall promptly notify, in writing, the Contractor of any deficiency identified during the Commissioning Process.

9.7.4. To facilitate the Commissioning Process, the Contractor shall submit 4 sets of Operation and Maintenance manuals for dynamic and engineered systems to CMHA and CxA, if applicable, for approval. This submission shall occur within 30 days of obtaining approval of all related Contractor submittals required by the Contract Documents.

9.8. Contract Completion

9.8.1. Partial Contract Completion

A. When items of Work cannot be completed until a subsequent date, CMHA shall prepare a partial Certificate of Contract Completion that shall include a detailed list of the deferred Work and the date(s) by which the Contractor will complete that Work.
B. CMHA shall submit the partial Certificate of Contract Completion to Contractor for their written acceptance. Upon their acceptance of the partial Certificate of Contract Completion and consent of the Contractor's Surety, CMHA may release payment to the Contractor, as determined in the sole discretion of CMHA.

9.8.2. Final Contract Completion

A. Contract Completion shall occur no later than ____calendar days from the date of Substantial Completion.
B. When all items on CMHA's Punch List have been completed to the satisfaction of CMHA, all requirements of the Contract Documents have been completed, and the provisions have been fulfilled, CMHA shall prepare and recommend execution of final Contract payment.
C. The date that CMHA executes the final Certificate of Contract Completion or issues Contract payment, whichever is later, is the date of Contract Completion.
D. Nothing in Contract Completion shall constitute a waiver of CMHA's ability to pursue damages as the result of any breach of the Contract by the Contractor or Liquidated Damages.

10. ARTICLE X SUSPENSION AND TERMINATION

10.1. Suspension of the Work

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

10.1.2. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of CMHA in the administration of this Contract, or by CMHA's failure to act within the time specified (or within a reasonable time if not specified) in this Contract, an adjustment shall be made for any increase in the cost of performance of the Contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly.

A. However, no adjustment shall be made for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this Contract.

10.1.3. A Claim shall not be allowed:

A. For any costs incurred more than twenty (20) calendar days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

B. Unless the Claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but no later than the date of final payment under the Contract.

10.1.4. If CMHA suspends the Work under ARTICLE X SUSPENSION AND TERMINATION and the Contractor submits a proper Payment Request, subject to all other provisions of the Contract Documents, the Contractor shall be entitled to payment of compensation due under the Contract Documents for the Work performed before the suspension based upon the Schedule of Values.

10.1.5. CMHA, without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period as CMHA may determine for any of the following reasons:

A. Defective Work;

B. The Contractor is causing undue risk of damage to any part of the Project or adjacent area;

C. The Contractor fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or

D. Any other cause CMHA reasonably believes justifies suspension.

i. CMHA's exercise of its right to suspend the Work shall not entitle Contractor to any adjustment of the Contract Sum, Contract Time or both.

10.1.6. Upon receipt of the notice of suspension, the Contractor shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs.

A. The Contractor shall furnish a report to CMHA within five (5) business days of receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as CMHA may require.

10.1.7. CMHA's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the Contractor or any other party, and CMHA's exercise or failure to exercise the right shall not prejudice any of CMHA's other rights including the right to suspend the Work in the future under the same or similar circumstances.

10.2. Termination for Convenience

10.2.1. CMHA, through the Contracting Officer, may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of CMHA.

A. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which termination becomes effective.

10.2.2. Upon delivery of the notice of termination for convenience, the Contractor shall immediately proceed with performance of the following duties in accordance with instructions from CMHA:

A. Cease operations as specified in the notice;

B. Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities, except as necessary to complete continued portions of the Project;

C. Terminate all subcontracts and orders to the extent they are related to the Work terminated;

D. Proceed with Work not terminated; and

E. Take actions that may be necessary, or that CMHA may direct, for the protection and preservation of the terminated Work.

i. Failure to do so may lead to Contractor's liability for actual damages as a result of Contractor's failure to protect the Work.

10.2.3. If the performance of the work is terminated, either in whole or in part, CMHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by CMHA of a properly presented claim setting out in detail:

A. The total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor;

B. The cost of settling and paying claims under Subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by CMHA to the Contractor or by the Contractor to the Subcontractor or supplier;

C. The cost of preserving and protecting the work already performed until CMHA or assignee takes possession thereof or assumes responsibility therefore; and

D. An amount constituting a reasonable profit on the value of the work performed by the Contractor.

10.2.4. CMHA will act on the Contractor's claim within sixty (60) calendar days (unless CMHA deems in writing that additional time is needed for review) of receipt of the Contractor's claim.

10.2.5. Any disputes are expressly made subject to the provisions of this Contract.

10.2.6. If CMHA terminates the Work the termination shall not affect the rights or remedies of CMHA against the Contractor then existing or which may thereafter accrue.

10.2.7. Notwithstanding, if CMHA terminates the Work but there exists an event of Contractor's default, the Contractor shall be entitled to receive only such amounts as it would be entitled to receive following the occurrence of an event of default as provided for below.

10.3. Termination for Cause/Default

10.3.1. If the Contractor materially breaches this Contract, including without limitation, the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this Contract, or any extension thereof, or fails to complete said work within this time, CMHA may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed.

A. In this event, CMHA may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work.

B. The Contractor and its sureties shall be liable for any damage to CMHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated.

i. This liability includes any increased costs incurred by CMHA in completing the Work.

C. Other examples of material breaches of the Contract include but are not limited to:

i. Refusal to remedy defective work;

ii. Failure to supply enough properly skilled workers or proper materials;

iii. Failure to provide revised Construction Progress Schedule or Recovery Plan;

iv. Failure to properly make payment to Subcontractors or Consultants; or

v. Disregarding laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

10.3.2. If CMHA intends to exercise its termination right, CMHA shall issue not less than five (5) business days written notice to the Contractor and the Contractor's Surety in accordance with ORC.

A. Notwithstanding any provision of the Contract to the contrary, the issuance of a 3-Day Notice is not a condition precedent to CMHA's exercise of its rights and CMHA's decision to not issue a 3-Day Notice will not prejudice CMHA's rights under this.

10.3.3. If the Contractor fails to satisfy the requirements set forth in the 5-Day Notice within fifteen (15) calendar days of receipt of the 5-Day Notice or as otherwise specified in the notice, CMHA may declare the Contractor in default, terminate the Contract, and employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

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

10.3.5. If the Contract is terminated, the Contractor's Surety may perform the Contract.

A. If the Contractor's Surety does not commence performance of the Contract within ten (10) calendar days of the date of Contract termination, CMHA may complete the Work by means that CMHA deems appropriate.

i. CMHA may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which CMHA has paid.

B. If CMHA notifies the Contractor's surety that the Contractor is in default or terminates the Contract, the surety will promptly and in not less than twenty-one (21) calendar days investigate the claimed material default or termination.

i. If CMHA gives a notice of default and then terminates the Contract, the surety shall complete its investigation within twenty-one (21) calendar days of the notice of default.

(a) As part of such investigation, the surety shall visit the offices of the Contractor, A/E and CMHA to review the available project records.

ii. If the surety proposes to take over the Work, the surety shall do so no later than the expiration of such 21-day period or ten (10) calendar days after the date CMHA terminates the Contract, whichever is later.

iii. If CMHA terminates the Work, and the surety proposes to provide a replacement contractor, the replacement contractor shall be fully capable of performing the Work in accordance with the Contract Documents, including meeting all the requirements of the Contract Documents.

(a) If the Contractor is terminated, the replacement contractor shall not be the Contractor.

iv. The surety will provide the Owner with the results of its investigation, including any written report or documents.

C. Termination for Cause/Default is in addition to CHMA's other rights under the Contract Documents and is not intended to create any rights of the surety, including but not limited to the right to take over the Contractor's obligations.

10.3.6. If the Contract is terminated for cause, the Contractor shall not be entitled to further payment.

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, (whether alleged or proven), demands, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, arising out of or related the costs incurred by CMHA to finish the Work following termination of the Contractor for cause.

B. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including without limitation the fees and charges of engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by CMHA and not expressly waived, the Contractor or Surety shall immediately pay the amount of insufficiency to CMHA.

C. This obligation for payment shall survive termination of the Contract.

10.3.7. If the Contractor's Surety performs the Work, the provisions of the Contract Documents govern the Surety's performance, with the Surety in place of Contractor in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of CMHA to complete the Work.

10.3.8. If CMHA terminates the Contract, the termination shall not affect any rights or remedies of CMHA against the Contractor then existing or which may thereafter accrue.

A. CMHA's retention or payment of funds due to the Contractor shall not release the Contractor or the Contractor's Surety from liability for performance of the Work in accordance with the Contract Documents.

10.4. Contractor Insolvency

10.4.1. Bankruptcy of Contractor

A. If the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the Contractor, the Contractor as the debtor-in-possession, or the trustee of the Contractor's bankruptcy estate shall notify CMHA in writing within five (5) days of such filing and file a motion to assume or reject the Contract within twenty (20) calendar days after the filing of the petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within forty-five (45) calendar days after the filing of the petition.

B. The failure of the Contractor to file and prosecute that motion Contractor shall constitute a material breach of the Contract by the Contractor as time is of the essence with respect to Contractor's performance of all terms of this Contract.

C. The Contractor agrees to the granting of relief from the automatic stay of the Bankruptcy Code, to permit CMHA to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of termination of the Contract and to take any other action necessary to terminate the Contract.

10.4.2. Receivership or Assignment for the Benefit of Creditors

A. If the Contractor makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of Contractor's business or property, CMHA shall serve written notice to the Contractor and Contractor's Surety stating that any failure of the Contractor to provide adequate assurance of continued performance shall be considered a rejection of the Contract, which shall result in termination of the Contract for cause.

B. Termination of the Contract need not be evidenced by an order of any court.

11. ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE

11.1. General

11.1.1. "Claim," as used in ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, additional time, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract.

11.1.2. A Claim arising under the Contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

11.1.3. A voucher, invoice, application for payment, or other routine request for payment that is permitted under the Contract Documents and is not in dispute when submitted, is not a Claim.

11.1.4. The submission may be converted to a Claim by complying with the requirements of ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

11.1.5. Except for disputes arising under ARTICLE XIX LABOR STANDARDS, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE.

11.1.6. All Claims by the Contractor shall be made in writing and submitted to CMHA for a written decision.

A. A claim by CMHA against the Contractor shall be subject to a written decision by the Contracting Officer.

11.2. Initiation of a Claim

11.2.1. Every Claim shall accrue upon the date of occurrence of the event giving rise to the Claim.

11.2.2. Except as provided, the Contractor shall initiate every Claim by giving written notice of the Claim to CMHA within ten (10) calendar days after occurrence of the event giving rise to the Claim, with the following exceptions:

A. The 10-day time limit on initiating a Claim arising from the response of an RFI by CMHA begins to run on the date of the response.

B. The 10-day time limit on initiating a Claim arising from CMHA's determination concerning a Differing Site Condition begins to run on the date of the determination .

11.2.3. The Contractor's written notice of a Claim shall provide the following information:

A. Nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the Contractor;

B. Identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, or delay;

C. Identification of activities on the Construction Progress Schedule that will be affected by the impact or new activities that may be created and the relationship with existing activities;

D. Anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period; and

E. Recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.

11.2.4. The Contractor's failure to initiate a Claim as and when required shall constitute the Contractor's irrevocable waiver of the Claim.

11.3. Substantiation of Claims General

11.3.1. Within thirty (30) calendar days after the initiation of a Claim, the Contractor shall submit three (3) copies of all information and statements required to substantiate a Claim and all other information that the Contractor believes substantiates the Claim.

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11.3.2. The Contractor shall substantiate all of its Claims by providing the following minimum information:

A. A narrative of the circumstances, which gave rise to the Claim, including without limitation the start date of the event or events and the actual or anticipated finish date;

B. Detailed identification of the Work affected by the event giving rise to the Claim;

C. Copies of the Contractor's daily log for each day of impact;

D. Copies of relevant correspondence and other information regarding or supporting Contractor's entitlement;

E. Copies of any and all information related to the Contractor's costs, including all job cost reports, bid take offs, and other financial information related to the Contractor's Claim;

F. The notarized Certification of a Claim

11.4. Substantiation of Claims for increase of the Contract Sum

11.4.1. In addition to the minimum information required by Contractor, the Contractor shall substantiate each Claim for an increase of the Contract Sum with:

A. Written documentation of the actual additional direct and indirect costs to the Contractor due to the event giving rise to the Claim;

B. A written statement from the Contractor that the increase requested is the entire increase in the Contract Sum associated with the Claim; and

C. The general substantiation documentation.

11.5. Substantiation of Claims for Extension of the Contract Time

11.5.1. In addition to the minimum information required by Contractor, the Contractor shall substantiate each Claim for an extension of the Contract Times with:

A. Written documentation of the actual delay to the critical path of the Construction Progress Schedule due to the event giving rise to the Claim;

B. A detailed written Proposal for an increase in the Contract Sum that would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, A written statement from the Contractor that the extension requested is the entire extension of the Contract Times associated with the Claim; and

D. The general substantiating documentation.

11.5.2. In addition, if adverse weather conditions are the basis for a Claim for additional time, the Contractor shall document the Claim with data substantiating that weather conditions were abnormal for the period, could not have been reasonably anticipated, and had an adverse effect on a critical element of the scheduled construction.

11.6. Certification of a Claim

11.6.1. The Contractor shall certify each Claim within thirty (30) calendar days after initiating the Claim or before Contract Completion, whichever is earlier, by providing the notarized Certification of a Claim specified below, signed and dated by the Contractor:

A. *"The undersigned Contractor certifies that the Claim is made in good faith; that the supporting data is accurate and complete to the best of the Contractor's knowledge and belief; that the amount requested is a fair, reasonable, and necessary adjustment for which the Contractor believes that CMHA is liable; and that the undersigned is duly authorized to certify the Claim on behalf of the Contractor."*

11.7. Delay and Delay Damage Limitations

11.7.1. Subject to other provisions of the Contract, the Contractor will be entitled to an extension of the Contract Times on account of delay in the commencement or progress of Work on the critical path of the Construction Progress Schedule caused by acts of unforeseeable Nature or the public enemy, acts of the government not arising from the Contractor's failure to comply with Applicable Law, fires, floods, epidemics, weather, and labor disputes beyond the Contractor's control.

11.7.2. Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Times, or both:

A. On account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on Work not on the critical path;

B. To the extent that a delay occurs concurrently with a delay attributable to the Contractor; or

C. On account of the delay of any Work not on the critical path.

i. When the Contractor is prevented from completing any part of the Work on the critical path within the Contract Time due to weather conditions, provided the Contractor properly initiates a Claim, the Contract Time will be extended by one (1) day for each work day lost due to weather that delays Work on the critical path in excess of those in the following table:

Month	Number of Workdays Lost Due To Weather
January	8
February	8
March	7
April	6
May	5
June	4
July	4
August	4
September	5
October	6
November	6
December	6

11.7.3. Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless:

A. The delay is caused by CMHA; and

B. The delay was not authorized or permitted under the Contract.

11.7.4. Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any the Work caused by the occurrence or non-occurrence of an event beyond CMHA's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, or damages caused by the Contractor.

11.8. Derivative Claims

11.8.1. Notwithstanding any other provision of the Contract to the contrary, if CMHA prosecutes a claim, suit, or appeal against a Separate Consultant or Separate Contractor to recover damages the Contractor suffers on account of the acts or neglects of a Separate Consultant or Separate Contractor or person or entity for whom either is legally responsible, CMHA's liability to the Contractor shall not exceed the amount CMHA actually recovers from the Separate Consultant or Separate Contractor on account of those damages less the costs CMHA incurs recovering them. CMHA is not obligated to prosecute any such claim, suit, or appeal.

11.9. Claim Decision

11.9.1. CMHA shall, within sixty (60) calendar days (unless otherwise requested), decide Claims submitted by Contractor or notify the Contractor of the date by which the decision will be made.

11.9.2. The Contracting Officer's decision shall be final with respect to Claims by Contractor unless the Contractor:

A. Appeals in writing to a higher level at CMHA in accordance with the CMHA's policy and procedures;

B. Refers the appeal to an independent mediator or arbitrator; or

C. Files suit in a court of competent jurisdiction. Such suit must be filed within fifteen (15) calendar days (unless a different time period is identified in the Claim Decision)after receipt of CMHA's decision.

11.9.3. The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, Claim, appeal, or action arising under or relating to the Contract, and comply with any decision of CMHA.

11.10. Audit of a Claim

11.10.1. All Claims submitted by Contractor shall be subject to audit at any time following filing of the Claim by Contractor, whether or not the Claim is part of any lawsuit.

11.10.2. The audit may be performed by employees of CMHA or by a consultant engaged by CMHA.

11.10.3. The audit may begin upon 10-days' notice to the affected Contractor or affected Subcontractor.

11.10.4. The Contractor shall cooperate with the request.

11.10.5. Failure of the Contractor or Subcontractor to produce sufficient records to allow CMHA to audit and verify a Claim shall constitute an irrevocable waiver of the Claim or portion of the Claim that could not be completely audited.

11.10.6. The Contractor shall make available to CMHA all Contractor and Subcontractor documents related to the Claim including, without limitation, the following documents:

A. Daily time sheets and superintendent's daily reports;
B. Union agreements, if any, and employer agreements;
C. Insurance, welfare, fringes, and benefits records;
D. Payroll tax returns;
E. Material invoices, purchase orders, Subcontracts, and all material and supply acquisition contracts;
F. Material cost distribution worksheets;
G. Equipment records (list of Contractor equipment, rates, etc.);
H. Vendor rental agreements and Subcontractor invoices;
I. Subcontractor payment certificates;
J. Canceled checks (payroll and vendors);
K. Job cost report;
L. Job payroll ledger;
M. General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;
N. Cash disbursements journal;
O. Financial statements for all years reflecting operations on the Project;
P. Income tax returns for all years reflecting operations on the Project;
Q. Depreciation records on all equipment utilized whether the records are maintained by the Contractor, its accountant, or others;
R. If a source other than depreciation records is used to develop costs for the Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;
S. All documents that reflect the Contractor's actual profit and overhead during the years the Project was being performed;
T. All documents related to the preparation of the Contractor's Bid, including the final calculations on which the Bid was based, unless the documents are placed in escrow under provisions of the Instructions to Bidders;
U. All documents that relate to the Claim together with all documents that support the amount of damages as to the Claim;
V. Worksheets used to prepare the Claim establishing the cost components for items of the Claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents that establish the periods of time, individuals involved, the hours and rate of pay for the individuals; and
W. All other documents required by CMHA to reasonably review the Claim.

11.11. False Certification of a Claim

11.11.1. If the Contractor falsely certifies all or any part of a Claim, the portion of the Claim falsely certified shall be denied, and may be sufficient cause for CMHA to exclude Contractor from future contracting opportunities as permitted by law.

11.11.2. The Contractor shall not knowingly present or cause to be presented to the Owner a false or fraudulent Claim.

A. Knowingly shall have the same meaning as in the Federal False Claims Act.

11.11.3. If the Contractor knowingly presents or causes to be presented a false or fraudulent Claim, then the Contractor shall be liable to the Owner for the same civil penalty and damages as the United States Government would be entitled to recover and shall also indemnify and hold the Owner harmless from all costs and expenses, including Owner's attorneys' and consultants' fees and expenses incurred in investigating and defending against such Claim and in pursuing the collection of such penalty, damages and fees and expenses.

12. ARTICLE XII WARRANTY

12.1. Warranty of Title

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

12.2. Warranty of Construction

12.2.1. In addition to any other warranties in this Contract, the Contractor warrants that work performed under this contract conforms to the Contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any Subcontractor or supplier at any tier.

A. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be considered Defective Work.

B. If required by CMHA, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

12.2.2. The Contactor shall remedy, at the Contractor's expense, any Work that does not conform to the requirements of the Contract Documents, or any Defective Work.

A. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to CMHA-owned or controlled real or personal property when the damage is the result of:

i. Any action or inaction by Contractor;

ii. The Contractor's failure to conform to Contract requirements; or

iii. Any defects of equipment, material, workmanship or design furnished by the Contractor.

12.2.3. The Contractor shall restore any work damaged in fulfilling the terms and conditions of Warranty of Construction.

A. The Contractor's Warranty with respect to work repaired or replaced shall be extended for a period of not less than one year, beyond the original Warranty period required under the Contract, of repair or replacement.

12.2.4. CMHA shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.

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

12.2.5. With respect to all warranties, express or implied, from Subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:

A. Obtain all warranties that would be given in normal commercial practice;

B. Require all warranties to be executed in writing, for the benefit of CMHA; and

C. Enforce all warranties for the benefit of CMHA.

12.2.6. If the Contractor or a Subcontractor recommends a particular product, material, system, or item of equipment for incorporation into the Project and CMHA accepts that recommendation, the above Warranty shall include a warranty from the Contractor to CMHA that the recommended product, material, system, or item of equipment is fit and appropriate for the associated purpose.

12.3. Warranty Walk-through Contractor

12.3.1. At CMHA's request, Contractor shall perform a walkthrough of the property no earlier than three months prior to the expiration of any Warranty.

A. If Contractor is unavailable for the Warranty walk-thru, the Warranty shall be extended until the time Contractor is available.

13. ARTICLE XIII BONDS

13.1. Bid Bond/Guaranty

13.1.1. The Contractor shall provide to CMHA a Bid Guaranty in the form of either:

A. A Bond for 10% of the Bid; or

B. A certified check, cashier's check or letter of credit revocable only at the option of CMHA and shall be in the amount of 10% of the Bid.

13.1.2. The Bid Guaranty shall be conditioned to:

A. Provide that Contractor will, after award, enter into a contract with CMHA in accordance with the bid, plans, details, and specifications.

B. If the Bidder fails to enter into the Contract and CMHA awards Contract to next lowest bidder, the Bidder and the Surety on the Bidder's Bid are liable to CMHA for the lessor of either:

i. The difference between the Bidder's Bid amount and the bid amount of the next lowest bidder; or

ii. For a penal sum of the Bond in the amount of 10% of the Bidder's Bid.

C. If CMHA does not award the Contract to the next lowest bidder but resubmits the Project for bidding, the Bidder failing to enter into the Contract and the Surety on the Bidder's Bond are liable to CMHA for a penal sum on the Bond not to exceed 10% of the amount of the Bidder's Bid amount.

13.1.3. Where CMHA accepts a Bid but the Bidder fails or refuses to enter into a Contract in accordance with the Contract Documents included with the Bid, including the plans, details, and specifications, within ten (10) calendar days after Notice of Intent, the Bidder and Surety on any Bond are liable for the amount of the difference between the amount of the Bidder's Bid and the amount of the Bid from next lowest Bidder.

13.1.4. All Bid Guaranties shall be payable to CMHA, be for the benefit of CMHA and be deposited with CMHA**.**

13.2. Payment and Performance Bond

13.2.1. In addition to any other requirements in the Contract Documents, Contract Commencement does not occur until CMHA receives a Payment and Performance Bond.

13.2.2. Contractor shall, within ten (10) calendar days of CMHA's delivery of signed Contract to Contractor, unless otherwise specified by CMHA in writing, deliver to CMHA a payment and performance bond with a penal sum in the amount of 100% of the Contract Sum (which includes all acceptable alternates).

13.2.3. The Payment and Performance Bond shall contain the following a condition that indemnifies CMHA against all damages suffered by CMHA as a result of the failure of Contractor to perform the Work in accordance with the requirements of the Contract Documents, including, the plans, details, and specifications, and the Payment and Performance Bond shall state that Contractor shall pay all lawful claims of Subcontractors, material suppliers, and laborers for labor performed or material furnished in carrying forward, performing or completing the Contract.

13.2.4. All Bonds requirement by the Contract shall be obtained from companies holding certificates of authority as acceptable sureties and shall be listed on the U.S Treasury Circular 570 (T-List).

A. Each company shall be licensed to do business in Ohio and satisfactory to CMHA.

13.2.5. The Contractor shall submit with each executed Bond:

A. A certified copy of the authority to act (power of attorney) of the agent signing the Bond on behalf of the Surety, and

B. A current signed Certificate of Compliance issued by the Ohio Department of Insurance demonstrating that Surety is licensed to do business in Ohio.

13.2.6. If the Contract Sum increases at any time such that it exceeds the sum of the Bond, the Contractor shall cause the penal sum of the Bond to be increased such that the sum equals one-hundred percent of the increased Contract Sum.

13.2.7. Any time Contractor increases the sum of the Bond, the Contractor shall deliver to CMHA written consent of the affected Surety confirming the increased penal sum of the Bond.

A. CMHA's receipt of that written consent is a condition precedent to CMHA's obligation to pay the Contractor for any portion of the Work associated with the increase.

13.2.8. If notice of any change affecting the Contract is required by any Surety or by the provision of any Bond, the Contractor shall provide that notice.

14. ARTICLE XIV INSURANCE

14.1. Contractor's General Insurance Requirements

14.1.1. Throughout the performance of the Work or longer as may be described below, the Contractor and each Subcontractor shall obtain, pay for and keep in force, the minimum insurance coverage.

14.1.2. On a case-by-case basis, CMHA and Contractor may mutually agree to adjust the insurance requirements for any particular subcontractor.

14.1.3. All insurance shall be carried with companies which are financially responsible and admitted to do business in the State of Ohio.

A. If any such insurance is due to expire prior to Contract Completion, the Contractor (including Subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer.

B. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least thirty (30) calendar days prior written notice has been given to CMHA.

14.2. Minimum Coverage Requirements

14.2.1. Workers' Compensation:

A. In accordance with the State of Ohio Workers' Compensation laws

14.2.2. Commercial General Liability

A. With a combined single limit for bodily injury and property damage of not less than $1,000,000 per occurrence unless otherwise specified by CMHA in writing, to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others.

B. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability.

C. If the Contractor has a "claims made" policy, then the following additional requirements apply:

i. The policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and

ii. The extended reporting period may not be less than five years following the completion date of the Contract.

14.2.3. Employers Liability Coverage

A. Unless otherwise specified by CMHA in writing**,** the Contractor shall maintain employer's liability coverage with:

i. An each accident limit of not less than $1,000,000;

ii. A disease each-employee limit of not less than $1,000,000; and

iii. A disease policy limit of not less than $1,000,000.

14.2.4. Automobile Liability

A. On owned and non -owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than $ 1,000,000 per occurrence.

14.2.5. Builder's Risk Insurance

A. Before commencing Work, the Contractor shall furnish CMHA with a certificate of insurance evidencing that **Builder's Risk** (fire and extended coverage) **Insurance** on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force.

i. The Builder's Risk Insurance shall be for the benefit of the Contractor and CMHA as their interests may appear and each shall be named in the policy or policies as an insured.

ii. The Contractor if installing equipment supplied by CMHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by CMHA.

iii. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started.

iv. It need not be carried on landscape work.

v. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by CMHA.

vi. The Contractor may terminate this insurance on buildings as of the date CMHA issues a Certificate of Contract Completion.

B. The amount of Builder's Risk coverage shall not be less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than $25,000 per occurrence.

i. Contractor shall be responsible for paying all deductibles for any and all claims made under the Builder's Risk policy; and,

ii. Any deductible over the amount specified in this provision shall be authorized in writing by CMHA.

C. Coverage shall include a provision to pay the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property.

i. This shall include overtime wages and the extra costs of "express" or other means of expedited transportation and/or delivery of supplies necessary to the repair of replacement.

D. Coverage shall include "soft costs endorsement" including, but not limited to, the reasonable extra costs of the A/E and reasonable Contractor extension or acceleration costs.

E. Coverage shall include material in transit or stored in off-site and identified for the Project.

F. Coverage shall waive all rights between CMHA, Contractor, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.

G. Coverage shall include appropriate sub-limits for installation coverage.

H. Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing.

I. Coverage shall include temporary structures and scaffolding, along with collapse coverage.

J. Coverage shall be primary to all other applicable insurance.

K. The Builder's Risk policy shall specifically permit partial occupancy by CMHA prior to Contract Completion and coverage shall remain in effect until CMHA issues a Certificate of Contract Completion.

L. The Contractor's tools and equipment shall not be covered under the Builder's Risk policy.

i. It is the Contractor's sole responsibility to maintain insurance coverage for tools and equipment used on the Project, which shall be included in its Overhead (a component of Contractor's Fee) and not included as a separate item in Contractor's Schedule of Values.

M. If Contractor is involved solely in the installation of material and equipment and not in new building construction, the Contractor shall purchase and maintain a Builder's Risk, Builder's Risk-renovations, or installation floater insurance policy that complies with the requirements of Article XIV.

14.2.6. Umbrella/Excess Liability

A. The Contractor may employ an umbrella/excess liability policy to achieve the above required minimum coverage.

B. Unless otherwise specified by CMHA in writing, for Construction Contracts in excess $1,000,000, the Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $2,000,000 (in addition to the above-required limits) if the Work (or Work to be performed by the Subcontractor) includes any of the following:

i. Brick/block masonry;

ii. Exterior caulking/sealant;

iii. Cast-in-place or precast concrete;

iv. Damp proofing/waterproofing;

v. Electrical;

vi. Elevator;

vii. Exterior glass and/or glazing;

viii. Exterior marble, granite, and/or other stonework;

ix. Miscellaneous metals;

x. Plaster/stucco;

xi. Plumbing;
xii. HVAC;
xiii. Roofing and/or sheet metal;
xiv. Scaffolding;
xv. Spray-on fireproofing;
xvi. Sprinkler and/or fire protection; or
xvii. Structural steel and/or metal deck.

C. Unless otherwise specified by CMHA in writing, the Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $5,000,000 (in addition to the above-required limits) if the Work (or the Work to be performed by the Subcontractor) includes any of the following:
i. Caissons and/or piles;
ii. Major Demolition;
iii. Excavation and/or utility work;
iv. Sheeting, shoring, and/or underpinning;
v. Window washing equipment; or
vi. Wrecking.

14.2.7. Professional Liability – Contractor

A. Unless otherwise specified by CMHA in writing, the Contractor shall maintain professional liability insurance (including without limitation for sprinkler and/or fire protection and other design-build work included in the Work) without design-build exclusions with a limit not-less than $1,000,000 each claim and an annual-aggregate limit of not less than $2,000,000.
B. The professional liability policy shall have an effective date on or before the date that the Contractor first started to provide any Project-related services.
C. Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise CMHA in writing of any actual or alleged claims that may erode the professional liability limits.
D. The Contractor shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination of the Contract or Substantial Completion of all Work.

14.2.8. Additional Property Insurance

A. For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the Contractor shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable provisions of ARTICLE XIV INSURANCE.

14.2.9. Equipment Coverage

A. CMHA will not insure or be liable for damage to any Contractor or Subcontractor owned, leased, rented, or borrowed tools, equipment, or vehicles.
B. The Contractor and Subcontractors are solely responsible for maintaining all insurance necessary to cover their tools, equipment, and vehicles.

14.3. Waivers of Subrogation

14.3.1. To the fullest extent permitted by applicable laws, the Contractor waives all rights against CMHA and its agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance.
A. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

14.3.2. CMHA and Contractor waive all rights against each other for damages caused by fire or other perils to the extent actual recovery of any insurance proceeds under any property insurance or Builder's Risk insurance applicable to the Work.

15. ARTICLE XV INDEMNIFICATION

15.1. To the fullest extent permitted by Applicable Law, the Contractor shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of attorneys and other professionals, and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project.

15.2. The Contractor's indemnification obligation under ARTICLE XV INDEMNIFICATION exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused by a party indemnified under ARTICLE XV INDEMNIFICATION.

15.2.1. Nothing in ARTICLE XV INDEMNIFICATION obligates the Contractor to indemnify any individual or entity from and against the consequences of that individual or entity's own negligence.

15.3. The Contractor's obligations under ARTICLE XV INDEMNIFICATION shall not extend to the liability of the A/E, A/E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and other responsibilities of the A/E, except to the extent covered by the Contractor's insurance.

15.4. In claims against an Indemnified Party by any direct or indirect employee (or the survivor or personal representative of that employee) of the Contractor or a person or entity for whom the Contractor may be liable, the indemnification obligation under ARTICLE XV INDEMNIFICATION will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefits acts.

15.5. The Contractor's indemnification obligation under ARTICLE XV INDEMNIFICATION will survive termination of the Contract and Date for Contract Completion.

15.6. CMHA may deduct from the Contract Sum any claims, losses, fines, penalties, and expenses for which the Contractor is liable under ARTICLE XV INDEMNIFICATION.

15.6.1. If those claims, damages, losses, fines, penalties and expenses exceed the unpaid balance of the Contract Sum, the Contractor shall immediately pay the difference to CMHA.

16. ARTICLE XVI DAMAGES

16.1. Liquidated Damages

16.1.1. If the Contractor fails reach Substantial Completion within the Contract Time for Substantial Completion, including any properly approved extension for the Contract Time for Substantial Completion, the Contractor shall pay to CMHA as Liquidated Damages, the sum of **$_____.00** for each day of delay.

- **A.** Liquidated Damages for the Date for Contract Completion and any Milestone Dates in the Contract, not including Substantial Completion, shall be assessed on in accordance
- **B.** To the extent that the Contractor's delay or non-performance is excused under another clause in this Contract, Liquidated Damages shall not be due CMHA.
- **C.** The Contractor remains liable for damages caused other than by delay.

16.1.2. If CMHA terminates the Contractor's right to proceed, the resulting damage will consist of Liquidated Damages incurred until the Date of Contract Completion, together with any increased costs incurred by CMHA in completing the Work.

16.1.3. If CMHA does not terminate the Contractor's right to proceed, the resulting damage will consist of Liquidated Damages incurred until the Date of Contract Completion.

16.1.4. If the Contractor fails to achieve a Milestone Date, excluding the Date for Substantial Completion, within the associated Contract Time, the Contractor shall (at CMHA's option) pay to or credit CMHA the Liquidated Damages per day sum determined according to the following schedule for each day that the Contractor fails to achieve a Milestone within the associated Contract Time.

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Contract Sum	Liquidated Damages per day
Less than $100,000	$200
From $100,000 to $500,000	$400
From $500,000.01 to $1,000,000	$500
From $1,000,000.01 to $3,000,000	$750
More than $3,000,000	$1,000

16.1.5. If the Contractor simultaneously fails to achieve two or more Milestones, including the Date for Substantial Completion, CMHA shall be entitled to recover the sum of the associated Liquidated Damages per day rates.

16.1.6. The Liquidated Damages described are only intended to compensate CMHA for the direct damages it incurs as a result of the Contractor's failure to achieve the Milestones, including the Date for Substantial Completion, within their associated Contract Times.

16.1.7. The Liquidated Damages described are not intended to compensate CMHA for any damages CMHA incurs on account of:

- **A.** Any claims attributable to the Contractor that are brought by others including Separate Consultants and Separate Contractors; or
- **B.** Any failure of the Contractor to timely, properly, and completely perform the Contract other than the failure to achieve the Milestones, including the Date for Substantial Completion, within their associated Contract Times.

16.1.8. The parties acknowledge that the above-listed Liquidated Damages per day sums are not penalties, and they each irrevocably waive the right (if any) to challenge the validity and enforceability of those Liquidated Damages per day sums.

- **A.** Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the Liquidated Damages per day sums or their application are void and unenforceable, CMHA shall be entitled to recover the actual damages that it incurs on account of the Contractor's failure to achieve the Date for Substantial Completion and/or one or more of the Milestones within the applicable Contract Times.

16.1.9. In addition to other rights that CMHA may have relative to the Liquidated Damages, CMHA may deduct the Liquidated Damages from the Contract Sum as the damages accrue.

A. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the amount of the insufficiency to CMHA. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, associated with the failure of the Contractor to timely and properly reimburse CMHA for any Liquidated Damages.

16.2. Mutual Waiver of Consequential Damages

16.2.1. Except as providedLiquidated Damages, CMHA and Contractor each waive against the other all Claims for consequential damages that may arise out of or relate to this Contract.

A. CMHA's waiver includes Claims for loss of use, income, profit, revenue, financing, cost of capital, business and reputation, management and employee productivity, and consequential damages arising from termination of the Contract or related to insolvency.

B. The Contractor's waiver includes:

i. Claims for unabsorbed home-office overhead;

ii. Any other form of overhead in excess of that specifically provided for;

iii. Delay damages except as otherwise specifically provided for;

iv. Increased cost of funds for the Project;

v. Lost opportunity to work on other projects;

vi. Losses of financing, business, and reputation;

vii. Loss of profit except anticipated profit, arising directly from properly performed Work;

viii. Loss of bonding capacity; and

ix. Consequential damages arising from termination of the Contract or related to insolvency.

16.2.2. Notwithstanding Section 16.2.1, this Section 16.2:

A. Does not apply to any damages that would be covered by insurance provided in connection with the Project if the Contract did not include Section 16.2.1 **;**

B. Does not apply to the Contractor's indemnity obligations for third-party claims against the Indemnified Parties even if those claims are for damages that Section 16.2.1 would otherwise preclude;

C. Does not preclude CMHA's recovery of Liquidated Damages; and

D. Does not apply to Claims for damages arising from CMHA's or the Contractor's gross negligence or willful misconduct.

16.3. This ARTICLE 16 hall survive termination of the Contract.

17. ARTICLE XVII EQUAL OPPORTUNITY

17.1. Prohibition Against Discrimination

17.1.1. During the performance of this Contract, the Contractor agrees as follows:

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

B. The Contactor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, or handicap.

i. Such action shall include, but not be limited to:

(a) Employment;
(b) Upgrading;
(c) Demotion;
(d) Transfer
(e) Recruitment or recruitment advertising;
(f) Layoff or termination;
(g) Rates of pay or other forms of compensation; and
(h) 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 CMHA that explain ARTICLE XVII EQUAL OPPORTUNITY.

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

E. The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under ARTICLE XVII EQUAL OPPORTUNITY, 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, the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, pursuant thereto.

i. 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 ARTICLE XVII EQUAL OPPORTUNITY or any rule regulations, 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.

i. 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, including the following as provided by ORC:

(a) In the event Contractor fails to comply with these nondiscrimination provisions, CMHA shall deduct from the amount payable to the Contractor a forfeiture of the statutory penalty pursuant to ORC for each person who is discriminated against or intimidated.

(b) The Contract may be terminated or suspended in whole or in part by CMHA and all money due hereunder may be forfeited in the event of a subsequent violation of the foregoing nondiscrimination provisions.

(c) The Contractor shall include the terms and conditions of ARTICLE XVII EQUAL OPPORTUNITY in every Subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each Subcontractor or vendor.

(d) The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigations to protect the interests of the United States.

I. Compliance with the requirements of ARTICLE XVII EQUAL OPPORTUNITY shall be to the maximum extent consistent with, but not in derogation of compliance with the Indian Self-Determination and Education Assistance Act and the Indians Preference clause of this Contract.

J. The Contractor shall cooperate fully with the States Equal Opportunity Coordinator (EOC), with any other official or agency of the state of federal government that seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Contract.

18. ARTICLE XVIII SECTION 3

18.1. In order to promote Employment, Training, and Contracting Opportunities for Low-Income Persons, the Contractor shall participate in CMHA's Section 3 Program.

18.2. 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.

18.2.1. 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.

18.3. The parties to this Contract agree to comply with HUD's regulations in 24 CFR, which implement Section 3.

18.3.1. As evidence by the execution of the Contract, the parties to this Contract certify that they are under no contractual or other impediments that would prevent them from complying with the regulations.

18.4. 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 narrative advising the labor organization or workers' representative of the Contractor's commitments, and will post copies of this notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice.

18.4.1. The notice shall describe the 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 will begin.

18.5. The Contractor agrees to include ARTICLE XVIII SECTION 3 in every subcontract subject to compliance with regulations in 24 CFR, and agrees to take appropriate action, as provided in an applicable provision of the Subcontract or in ARTICLE XVIII SECTION 3, upon a finding that the Subcontractor is in violation of the regulations in 24 CFR.

18.5.1. 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.

18.6. 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 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR.

18.7. Noncompliance with HUD's regulations in 24 CFR may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

18.8. Section 3 Reporting Requirements

18.8.1. Monthly Section 3 Compliance Reports are to be submitted to the Economic Inclusion Coordinator.

18.8.2. These reports should include a listing of the Contractor's current local workforce, any new hiring or subcontracting that has occurred, along with identifying information on all new hires and all subcontractors.

18.9. The Contractor shall cooperate fully with requests for additional Section 3 information and documentation **as needed by** CMHA or the Contracting Authority.

19. ARTICLE XIX LABOR STANDARDS

19.1. Compliance with Davis Bacon and Related Acts requirements

19.1.1. All rulings and interpretations of the Davis Bacon and Related Acts contained in 29 CFR are herein incorporated by reference in this Contract.

19.2. Minimum Wages

19.2.1. All laborers and mechanics employed under this Contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act, the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

A. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period.

B. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR.

C. 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.

D. The wage determination (including any additional classification and wage rates conformed under 29 CFR and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

19.2.2. Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination.

A. HUD shall approve any additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

i. The work to be performed by the classification requested is not performed by a classification in the wage determination;

ii. The classification is utilized in the area by the construction industry; and

iii. The proposed wage rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

B. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210.

i. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) calendar days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

C. In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination.

i. The Administrator or an authorized representative, will issue a determination within thirty (30) calendar days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time was necessary.

D. The wage rate (including fringe benefits where appropriate) shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

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

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

A. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

19.3. Withholding of Funds

19.3.1. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract.

A. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the Project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

B. HUD or its designee may, after written notice to the Contractor or Subcontractor, issue payment to the respective employees to whom they are due.

19.4. Payrolls and Basic Records

19.4.1. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the Project.

A. Such records shall contain:

i. The name, address, and social security number of each such worker;

ii. His or her correct classification

iii. Hourly rates of wages paid

(a) Including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in the Davis-Bacon Act;

iv. Daily and weekly number of hours worked;

v. Deductions made; and

vi. Actual wages paid.

B. Whenever the Secretary of Labor has found, under 29 CFR, that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

i. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

19.4.2. The Contractor shall submit for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee.

A. The payrolls submitted shall set out accurately and completely all of the information required to be maintained.

B. This information may be submitted in any form desired.

i. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

C. The Contractor is responsible for the submission of copies of payrolls by all Subcontractors (Approved by the Office of Management and Budget under OMB Control Number 1214-0149).

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

(a) That the payroll for the payroll period contains the information required to be maintained and that such information is correct and complete;

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

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

ii. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance".

iii. The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under Title 18 and Title 31 of the United States Code.

19.4.3. Records

A. The Contractor or Subcontractor shall make the records available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job.

B. If the Contractor or Subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds.

C. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR.

19.5. Apprentices & Trainees

19.5.1. Apprentices will be permitted to work at less than predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first ninety (90) calendar 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. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

i. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed , shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

ii. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

B. Where a Contractor is performing construction on a project in a locality other than that in which registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed.

C. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

i. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program.

ii. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

iii. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

D. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

19.5.2. Trainees

A. Except as provided for in 29 CFR, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

B. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

C. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

i. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program.

ii. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices.

iii. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed.

iv. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

D. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work until an acceptable program is approved.

19.5.3. Equal Employment Opportunity

A. The utilization of apprentices, trainees, and journeymen shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR.

19.6. Compliance with Copeland Act requirements

19.6.1. The requirements of 29 CFR, which are hereby incorporated by reference in this Contract

19.7. Contract Termination; Debarment

19.7.1. A breach of ARTICLE XIX LABOR STANDARDS may be grounds for termination of the Contract and for debarment as a Contractor and a subcontractor.

19.8. Disputes Concerning Labor Standards

19.8.1. Disputes arising out of the labor standards provisions of Disputes Concerning Labor Standards shall not be subject to ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE of this contract.

A. Such disputes shall be resolved in accordance with the procedures of the Department of Labor.

19.8.2. Disputes within the meaning of Disputes Concerning Labor Standards include disputes between the Contractor (or any of its Subcontractors) and CMHA, HUD, the U.S. Department of Labor, or the employees or their representatives.

19.9. Certification of Eligibility

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

19.9.2. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of the Davis-Bacon Act or 29 CFR.

19.9.3. The penalty for making false statements is prescribed in the U. S. Criminal Code 18 U.S.C.

19.10. Contract Work Hours and Safety Standards Act

19.10.1. As used in 19.10 - Contract Work Hours and Safety Standards Act, the terms "laborers" and "mechanics" include watchmen and guards.

19.10.2. Overtime Requirements

A. No Contractor or Subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one half pay for all hours worked in excess of 40 hours in such workweek.

19.10.3. Violation; liability for unpaid wages; Liquidated Damage**s**

A. In the event of any violation, the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages.

B. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages.

C. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation, 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.

19.10.4. Withholding for unpaid wages and liquidated damages

A. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of Work performed by the Contractor or Subcontractor under any such Contract or any Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages.

19.11. Subcontracts

19.11.1. The Contractor or Subcontractor shall insert in any Subcontracts all the provisions contained in Subcontracts, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the Subcontractors to include these provisions in any lower tier Subcontracts.

19.11.2. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all these provisions.

19.12. Non-Federal Prevailing Wage Rates

19.12.1. Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the Contract and shall not be enforced against the Contractor or any Subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

A. The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C.) to be prevailing in the locality with respect to such trade;

B. An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL- recognized State Apprenticeship Agency; or

C. An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

20. ARTICLE XX HEALTH, SAFETY AND ACCIDENT PREVENTION

20.1. General Contractor Requirements

20.1.1. In performing this Contract, the Contractor shall:

- **A.** Take reasonable precautions to ensure safety of individuals on the Project;
- **B.** Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
- **C.** Protect the lives, health, and safety of other persons;
- **D.** Prevent damage to property, materials, supplies, and equipment; and
- **E.** Avoid work interruptions.

20.1.2. For these purposes, the Contractor shall:

- **A.** Comply with regulations and standards issued by the Secretary of Labor .
  - **i.** Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act; and
- **B.** Include the terms of ARTICLE XX HEALTH, SAFETY AND ACCIDENT PREVENTION in every Subcontract that such terms will be binding on each Subcontractor.
- **C.** The Contractor shall be responsible for its Subcontractors' compliance with the provisions of ARTICLE XX HEALTH, SAFETY AND ACCIDENT PREVENTION.
  - **i.** The Contractor shall take such action with respect to any Subcontract as CMHA, the Secretary of Housing or Secretary of Labor shall direct as a means of enforcing such provisions.
- **D.** The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this Contract resulting in death, traumatic injury, occupational diseases or damages to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR;
- **E.** The Contractor shall pay any fine or cost incurred because of Contractor's violation, or alleged violation, of any Applicable Law.

20.2. Notification of Non-Compliance Procedure

20.2.1. To the extent CMHA is aware of Contractor's noncompliance with the safety requirements in the Contract, CMHA shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. However, CMHA's failure to notify Contractor of noncompliance with any applicable safety requirements, does not relieve Contractor of any obligation to comply with safety requirements for the Project.

- **A.** This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required.

20.2.2. After receiving the notice, the Contractor shall immediately take corrective action.

20.2.3. If the Contractor fails or refuses to take corrective action promptly, CMHA may issue an order stopping all or part of the work until satisfactory corrective action has been taken.

20.2.4. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under Section 20.2.

20.3. Safety Plan

20.3.1. The Contractor is responsible for designing and implementing its own site-specific safety plan, including compliance with OSHA regulations and such plan shall meet or exceed CMHA's site-specific safety plan (if any).

20.3.2. Before starting any Work, the Contractor shall submit to CMHA a copy of the Contractor's site-specific safety plan and safety manuals.

20.4. Safety Data Sheets

20.4.1. The Contractor shall identify any material it uses at the Site with a Safety Data Sheet ("SDS") meeting the requirements of OSHA's Hazardous Communication Standard.

20.4.2. The Contractor shall maintain a notebook containing all of its applicable SDSs.

- **A.** This notebook shall be kept at the Site for the duration of the Project.

20.5. Hazardous Materials

20.5.1. Prohibition Against Hazardous Materials

A. The Contractor shall not introduce Hazardous Materials to the Project

20.5.2. Work Stoppage Due to Hazardous Materials

A. If the Contractor encounters material the Contractor reasonably believes to be, or contain, a Hazardous Material that has not been rendered harmless, the Contractor shall immediately stop Work in the affected area and verbally report the condition to CMHA, and within one (1) business day deliver written notice of the condition to CMHA.

B. CMHA will promptly determine the necessity of CMHA retaining a qualified environmental consultant to evaluate the suspected Hazardous Material and to issue a related written report.

i. Where appropriate, CMHA will engage a licensed abatement contractor to remove the material or render it harmless as directed.

C. The Contractor shall resume Work in the affected area upon written notice from CMHA that:

i. The suspect material was evaluated and found not to be or contain a Hazardous Material; or

ii. The suspect material has been removed or rendered harmless.

D. If the Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the Contractor shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from performing the Work in the affected area. Further, to the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, associated with Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless.

E. The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

20.6. Fires or Hot-Work

20.6.1. Contractor shall not burn any fires on the Site(s).

A. The Contractor shall notify the Project Manager twenty-four (24) hours before the start of non-routine or non-recurring hot-work.

i. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum.

ii. At the beginning of the Project, the Contractor shall inform the Project Manager of its intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices.

iii. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

B. The Contractor shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times.

i. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the Contractor's operations.

20.7. Explosives and Blasting

20.7.1. The Contractor shall not conduct blasting on, or bring explosives to the Work Site without written approval of CMHA and other authorities with jurisdiction.

20.7.2. The Contractor shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

20.7.3. The Contractor shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations.

A. Immediately upon request, the Contractor shall deliver evidence of that insurance to CMHA.

21. ARTICLE XXI CONTRACT DOCUMENTS AND CONTRACT RECORDS

21.1. Examination and Retention of Contractor's Records

21.1.1. CMHA, HUD, or the Comptroller of the United States, or any of their duly authorized representatives shall, until three (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.

21.1.2. The Contractor agrees to include in first-tier Subcontracts under this Contract a clause substantially the same as 21.1.1.

A. "Subcontract," as used in Examination and Retention of Contractor's Records, excludes purchase orders not exceeding $10,000.

21.1.3. The periods of access and examination for records relating to (1) appeals under ARTICLE XI DISPUTE RESOLUTION/CLAIM PROCEDURE of this contract, (2) litigation or settlement of claims arising from the performance of this Contract, or (3) costs and expenses of this Contract to which CMHA, 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.

21.1.4. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, arising out of or related to any dispute regarding what Person or Persons should be given access to the documents under Section 21.1.

21.1.5. The right of inspection, audit, and reproduction extends to all documents necessary to permit CMHA, or its agents, to perform a complete evaluation of all of the Contractor's costs related to the Project, including, but not limited to, the cost of pricing data submitted along with the computations and projections used therein.

21.1.6. If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to CMHA for a period of six (6) years from the date of termination.

21.2. Examination and Audit of Contractor's Records

21.2.1. CMHA may examine all books, records, documents and other data of the Contractor and its Subcontractors related to the bidding, pricing, or performance of the Work for any purpose, including, but not limited to, evaluating any Contractor Payment Request, Proposal, Modification, or Claim.

21.2.2. The above referenced materials shall be made available at the office of the Contractor or Subcontractor, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of six (6) years after the date of Substantial Completion of all Work.

A. The Contractor shall maintain, and require its Subcontractors to maintain, complete and accurate business records at its principal place of business.

i. If the principal place of business is greater than 50 miles from the Site, the Contractor shall timely make records available, and shall require its Subcontractors to timely make records available, at the office of CMHA upon request for the records.

B. To the extent that the Contractor or Subcontractor, as applicable, informs CMHA in writing that any documents provided to CMHA are trade secrets, CMHA shall treat these documents, to the extent permitted by law, as trade secrets of the Contractor or Subcontractor, as applicable.

i. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless CMHA, from and against all claims, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, arising out of or related to any dispute regarding what Person or Persons should be given access to the documents under Section 21.2.

21.2.3. The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.

21.2.4. If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to CMHA for a period of six (6) years from the date of termination.

21.2.5. Records that relate to disputes, litigation, or settlement of Claims arising out of the performance of the Work shall be made available until the dispute, litigation or Claims have been finally decided or settled.

21.3. Ownership of Contract Documents

21.3.1. CMHA 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, drawings or letters concerning the research and reporting tasks of this Contract.

21.3.2. For data other than computer software, the Contractor grants to CMHA and others acting on its behalf, a paid-up, nonexclusive, irrevocable, world-wide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of CMHA.

21.3.3. CMHA alone owns the Contractor's Documents and the Contract Documents and every right, title, and interest therein.

21.3.4. The Contractor must execute and deliver and cause its agents and subcontractors to execute and deliver, to CMHA any transfers, assignments, documents or other instruments necessary to vest in CMHA the complete right, title, interest in and ownership of the Contractor's Documents.

21.3.5. The Contractor may retain copies of the Contractor's Documents and the Contract Documents for information, reference, and performance of the Work.

21.3.6. The submission or distribution of the Contractor's Documents or the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of CMHA's reserved rights in the Contractor's Documents.

A. Any unauthorized use of the Contractor's Documents or the Contract Documents shall be at the sole risk of the entity making the unauthorized use.

21.4. Intent of Contract Documents

21.4.1. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of Work by the Contractor.

21.4.2. The Contract Documents are complementary, and what is required by one is binding as if required by all.

21.4.3. The Contractor shall provide all labor materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.

21.4.4. The Drawings govern dimensions, details, and location of the Work.

A. The Specifications govern the quality of materials and workmanship.

21.4.5. The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

21.4.6. Unless otherwise defined in the Contract Documents, words that have well known technical or construction industry meanings are used within those recognized meanings.

21.5. Use of Electronic Files

21.5.1. CMHA and Contractor reasonably expect that they will provide Electronic Files to each other to facilitate the design and construction of the Project consistent with current practices and customs in the construction industry.

21.5.2. CMHA and Contractor acknowledge that the use of Electronic Files involves risks not generally associated with the use of paper documents.

A. Those risks may include, but not be limited to, alteration (inadvertent or intentional) and deterioration, both of which may not be apparent through casual observation.

21.5.3. In the event of a discrepancy between information contained in a paper version of a document and the Electronic File of that document, the paper will govern.

21.5.4. Use of Electronic Files does not relieve the Contractor of its responsibility for the preparation, completeness, or accuracy of the Contractor's Documents.

21.6. Order of Precedence

21.6.1. In the event of any inconsistency or conflict within any of the Contract Documents, the Contractor shall provide the better quality of Work and comply with the stricter requirement.

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

A. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

22. ARTICLE XXII MISCELLANEOUS

22.1. Assignment

22.1.1. The Contractor shall not assign or transfer any interest in this Contract; except that Claims for monies due or to become due from CMHA under the Contract may be assigned to a bank, trust company, or other financial institution.

A. Such assignments of claims shall only be made with the written concurrence of CMHA.

B. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by CMHA.

22.1.2. Assignment of Antitrust Claims:

A. By signing the Agreement, the Contractor assigns, conveys and transfers to CMHA any right, title, and interest to any claims or causes of action it may have or acquire under state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to CMHA pursuant to the Contract.

22.1.3. CMHA and Contractor each bind themselves, their successors, assigns and legal representatives, to the other party to this Contract and to the successors, assigns, and legal representatives of the other party with respect to the Contract.

22.2. Contractor Performance Evaluation

22.2.1. CMHA may evaluate the Contractor's Performance at any time including without limitation during the progress of the Work, at the completion of a phase of the Project, and/or completion of the Project.

22.2.2. CMHA shall retain the evaluation.

A. The Contractor may request a copy of the completed evaluation(s).

i. If the Contractor wishes to comment or take exception to any rating or remark, the Contractor must send a response in writing to CMHA within thirty (30) calendar days of Contract Completion and/or Termination.

B. CMHA may use the evaluation(s) in determining the responsibility of the Contractor for award of future contracts.

C. Poor evaluations may lead to a determination that Contractor is not responsible and therefore ineligible for award of future contracts for a period of not less than one year.

D. CMHA may request information from the Contractor for use in evaluating the A/E's performance.

i. If information is requested, the Contractor shall comply in a timely and responsive manner.

E. If a breach of the Contract is committed by the Contractor or is attributable to a Subcontractor, that breach will be used in the responsibility analysis of the Contractor and Subcontractor (where applicable) for future contracts or subcontracts for a period of five (5) years after the date of the breach unless said breach results in Contractor being placed on debarment list, then for the period provided therein.

22.3. Prohibition Against Liens

22.3.1. The Contractor is prohibited from placing a lien on CMHA's property.

A. This prohibition shall apply to all Subcontractors at any tier and all materials suppliers.

22.4. Conflict of Interest

22.4.1. Interest of Members of Congress

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

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

A. No member, officer, or employee of CMHA, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which CMHA 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.

22.5. Limitation on Payments Made to Influence Certain Federal Financial Transactions

22.5.1. The Contractor agrees to comply with Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions:

A. The awarding of any Federal contract;
B. The making of any Federal grant;
C. The making of any Federal loan;
D. The entering into of any cooperative agreement; or
E. The modification of any Federal Contract, grant, loan, or cooperative agreement.

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

22.6. Procurement of Recovered Materials

22.6.1. In accordance with 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) 40 CFR that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

A. 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:
i. Are not reasonably available in a reasonable period of time;
ii. 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
iii. Are only available at an unreasonable price.

22.6.2. 22.6.1 shall apply to items purchased under this contract where:

A. The Contractor purchases in excess of $10,000 of the item under this contract; or
B. During the preceding:
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.

22.7. Royalties and Patents

22.7.1. The Contractor shall pay all royalties and license fees and assume all costs incident to the use, in the performance of the Work or the incorporation in the Work, of any design, inventions, process, product, or devise that is the subject of patent rights or copyrights held by others.

A. Contractor shall defined all suits or claims for infringement of any patent rights or copyrights and shall save CMHA harmless from loss on account thereof; except that CMHA shall be responsible for all such loss when a particular design, process, or the product of a particular manufacturer or manufacturers is specified and the Contractor has no reason to believe that the specified design, process, or product is an infringements.
B. If, however, the Contractor has reason to believe that any design, process or product specified is an infringement of a patent or copyright, the Contractor shall promptly notify the Contracting Officer.
i. Failure to give such notice shall make the Contractor responsible for resultant loss.

22.8. Contract Time for Substantial Completion

22.8.1. The Contractor shall have the Work Substantially Complete within _____calendar days of the date for commencement of the Work established in the Notice to Proceed issued by CMHA. If a Notice to Proceed is not issued, the date for commencement of the Work shall be the effective date of the Contract.

22.9. Other Contracts

22.9.1. CMHA may undertake or award other contracts for additional work at or near the site of the Work under this contract.

22.9.2. The Contractor shall fully cooperate with the other contractors and with CMHA 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 CMHA.

22.9.3. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by CMHA employees.

22.10. Drug-Free Workplace

22.10.1. Each contractor shall be enrolled in and in good standing and shall require all subcontractors with whom the Contractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in the Revised Code prior to a subcontractor providing labor at the Project site of the public improvement.

22.11. Energy Efficiency and Sustainability Requirements

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

22.11.2. If the Project is designed and constructed under the Leadership in Energy and Environmental Design ("LEED") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the Contractor shall provide submittals certifying achievement of sustainable designed rating system criteria for verification by the Green Building Certification Institute or other third party in accordance with the Contract Documents.

22.12. Clean Air and Water

22.12.1. The Contactor shall comply with the Clean Air Act, as amended 42 USC, the Federal Water Pollution Control Water Act, as amended 33 U.S.C., and standards issued pursuant thereto in the facilities in which this Contract is to be performed.

22.13. Public Relations

22.13.1. Public relations or publicity about the Project shall be solely within the control of and consent of CMHA.

22.13.2. Contractor shall submit to CMHA all advertising and publicity related matter relating to this Contract, including without limitation, information provided in social media, wherein CMHA's name is mentioned or language used from which the connection of CMHA's name may, in CMHA's judgment, be inferred or implied.

A. Contractor shall not publish or use such advertising and publicity matters without prior express written consent of CMHA.

22.14. Governing Law

22.14.1. This Contract shall be governed and construed exclusively by its terms and by the laws of the State of Ohio and any suit filed to enforce any term of this Contract shall be filed only in a court of competent jurisdiction in Hamilton County, Ohio.

22.14.2. The parties to this Contract shall comply with applicable law.

22.15. Written Notice

22.15.1. Notice under the Contract Documents shall be validly given if:

A. Delivered personally to a member of the organization for whom the notice is intended.

22.16. Taxes

22.16.1. Parties acknowledge that CMHA is a tax exempt entity and Contractor must use tax exemption status for all purchases made for the Project in which tax emption is permitted under law.

22.17. Computing Time

22.17.1. When the Contract Documents refer to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period.

A. If the last day of the period falls on a Saturday or Sunday, or a legal holiday, that say shall be omitted from the computation and the period shall end on the next business day.

22.17.2. Except as excluded, the Contract Times and all other periods referred to in the Contract Documents includes Saturdays, Sundays, and all days defined as legal holidays below.

22.17.3. The standard workdays for the Work are Monday through Friday, excluding legal holidays.

22.17.4. The Legal Holidays are as follows:

A. New Year's Day
B. Martin Luther King Jr. Day
C. President's Day
D. Memorial Day
E. Independence Day
F. Labor Day
G. Columbus Day
H. Veterans Day
I. Thanksgiving Day
J. Christmas Day

22.18. Time is of the Essence

22.18.1. All time limits set forth in the Contract Documents are of the essence.

A. By signing this Contract, Contractor acknowledges that the Contract Times are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project.
B. By signing the Construction Progress Schedule, the Contractor acknowledges that the specified Milestone dates and the Date for Substantial Completion are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project.

22.18.2. The Notice to Proceed establishes the date for commencement of the Work.

22.18.3. The Contractor acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Work from any cause.

A. The sole remedy for such interference, disruption, hindrance, or delay shall be an extension of the Contract TimeMODIFICATIONS, unless otherwise required by law.

22.19. Extent of Contract

22.19.1. The Contract Documents represent the entire and integrated agreement between CMHA and the Contractor and supersede all prior negotiations, representations, or agreement, either written or oral.

22.19.2. This Contract may be executed in any number of counterparts, each of which shall be regarded as original and all of which constitute but one and the same instrument.

22.19.3. The captions and headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any of the provisions or sections hereof.

22.20. Severability

22.20.1. If any provision of this Contract is determined by a court having jurisdiction to be unenforceable to any extent, the rest of the provisions of this Contract will remain enforceable to the fullest extent permitted by law.

22.21. Facsimile/Electronic Mail Signature

22.21.1. Any party hereto may deliver a copy of its counterpart signature page of any Contract Documents via email, fax, or web-based project management software.

22.21.2. Each party shall be entitled to rely upon a scanned or facsimile signature of the other party in such a manner as if such a signature were an original.

22.22. No Third Party Interest

22.22.1. Except as expressly provided herein, no person or entity, other than CMHA and Contractor, will have any right or interest under the Contract, and the Contract does not create a contractual relationship of any kind between any persons or entities other than CMHA and the Contractor.

22.23. No Waiver

22.23.1. The failure of CMHA or Contractor to insist on anyone or more instances upon strict performance of any one or more of the provisions of the Contract or to exercise any rights under the Contract or provided by law will not be construed as a waiver or relinquishment of that provision or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

22.24. Assignment of Antitrust Claims

22.24.1. By signing this Contract, the Contractor conveys, assigns and transfers to CMHA any right, title, and interest in any claims or causes of action it may have or acquire under state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to CMHA pursuant to this Contract.

22.25. Survival of Obligations

22.25.1. All representations, indemnity obligations, warranties, guarantees, and other expressed continuing obligations under the Contract, will survive final payment, completion and acceptance of the Work, and termination or completion of the Contract.

22.26. Force Majeure

22.26.1. Neither party shall be liable for failure to perform if such failure is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, and/or insurrections.

22.27. Privacy

22.27.1. The Contractor agrees to Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act and any Personal information collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

22.27.2. Contractor shall ensure that its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein.

22.27.3. Contractor agrees not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without express written consent of CMHA or otherwise required by law.

22.27.4. Contractor agrees to indemnify and hold harmless CMHA for any damages related to Contractor's unauthorized use of personal information.

22.28. Contractor Status

22.28.1. It is understood that the Contractor is an independent contractor and is not to be considered an employee of CMHA, or assume any right, privilege or duties of an employee.

23. ARTICLE XXIII DEFINITIONS AND TERMINOLOGY

23.1. Whenever used in the Contract Documents, the terms listed below will have the meanings meaning ascribed which are applicable to both the singular and the plural and the male and female gender thereof:

23.1.1. Abandonment

A. A willful decision by the Contractor suspending the progress of the work for an uninterrupted period of three (3) or more consecutive days (excluding weekends and holidays) and such suspension was not requested by CMHA and not caused by natural occurrences or acts of God.

23.1.2. Acceptable Component

A. A component listed in the Specifications after the Basis of Design Component.

23.1.3. Addenda

A. Written or graphic instruments issued prior to the opening of Bids that clarify, correct, or change the Bidding requirements or the Contract Documents.

23.1.4. Agreement

A. The form provided by CMHA, including all of its exhibits, that, when completed and signed by the Contractor and CMHA is evidence of the execution of the Contract.

23.1.5. Allowance

A. An amount budgeted for during the Bidding process for an item that has yet to be specified or defined and for which no exact dollar amount is available.

23.1.6. Alternate

A. A change in the proposed Project scope, which may include alternate materials or methods of construction and an amount stated on the Bid form to be added or deducted from the Base-Bid if the corresponding Alternate is incorporated into the Contract.

23.1.7. Applicable Law

A. All federal, state, and local codes, statutes, ordinances, and regulations that apply to the performance of the Work.

23.1.8. Architect/Engineer (A/E)

A. The person or other entity engaged by the CMHA to perform architectural, engineering, design, and other services related to the work as provided for in the Contract.

B. When CMHA uses an engineer to act in this capacity, the terms “architect” and “engineer” shall be synonymous.

23.1.9. Asbestos

A. Any material that contains more than one percent (1%) asbestos fiber and is friable or is releasing asbestos fibers into the air above current action levels established by OSHA

23.1.10. As-Built Documents

A. Drawings, addenda, Specifications, executed Change Orders and other elements of the Contract Documents which the Contractor annotates and otherwise modified to indicate changes made during the construction process, the location of concealed and buried items, and other information useful to CMHA throughout the life of the completed Project.

23.1.11. Base-Bid

A. The amount stated in a Bid as the sum for which the Bidder offers to perform the Work in a particular trade or other category, which is described in the Contract Documents, excluding Alternates.

23.1.12. Basis of Design

A. A document that records the concepts, calculations, decisions, and product selections used to meet CMHA’s Project Requirements and to satisfy applicable regulatory requirements, standards, and guidelines.

B. The document includes both narrative descriptions and lists of individual items that support the design process.

23.1.13. Basis of Design Component

A. A component listed first in the Specifications.

23.1.14. Bid

A. The written offer of a Bidder submitted on the prescribed CMHA Bid Form setting forth the prices for the Work to be performed.

23.1.15. Bidder

A. The person that submits a Bid.

23.1.16. Bid Form

A. A form furnished by CMHA with the proposed Contract Documents that is to be completed, signed, and submitted containing the Bidder's Bid.

23.1.17. Bid Guaranty

A. A bid bond or other instrument of security authorized by 24 CFR submitted with the Bid to provide assurance that the Bidder will execute the Agreement.

23.1.18. Bond

A. Bid, performance and payment bonds and other instruments of security submitted by the Contractor to assure that the Contractor will perform the Work of the Contract, including making payment to Subcontractors and Material Suppliers.

23.1.19. Building Information Model (BIM)

A. A digital representation of physical and functional characteristics of a facility and a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle; defined as existing from earliest conception to demolition.

i. It describes the process of designing a building collaboratively using one coherent system of computer models rather than as separate sets of drawings.

23.1.20. Building Permit

A. The term building permit as used in the Contract Documents shall mean any and all permits required to comply with local and state building codes.

23.1.21. Certificate of Completion or Certificate of Contract Completion

A. A form, issued by CMHA, that documents the Contractors achievement of Contract Completion.

23.1.22. Certificate of Substantial Completion

A. A form, issued by CMHA, which is used to document:

i. That the Contractor has achieved Substantial Completion of the Work or a designated portion of the Work; and

ii. The date on which the associated Substantial Completion of the Work was achieved.

23.1.23. Change Order

A. A document recommended by the A/E and executed by CMHA and the Contractor that modifies the Contract and authorizes an addition, deletion, or revision in the work and an adjustment in the Contract Sum or the Contract Time or both.

23.1.24. Change Order Request

A. A CMHA prescribed form issued after execution of the Contract requesting a Change Order from the Contractor(s), which may initiate a Change Order to modify the Contract.

23.1.25. Claim

A. A demand or assertion, initiated by written notice as prescribe in the Contract Documents, by the Contractor or CMHA seeking an adjustment of Contract Sum or Contract Time or both, or other relief with respect to the terms of the Contract.

23.1.26. Claim Affidavit

A. A sworn document used in conjunction with filing a lien, which contains a claim on the funds that are due to a Contractor, in favor of a person supplying labor, materials or services for the value of labor, materials, or services supplied.

23.1.27. Construction

A. The term used to include new construction, reconstruction, renovation, restoration, rehabilitation, major repair, demolition and all similar work upon buildings and ancillary facilities, including any draining, dredging, grading or similar work upon real property.

23.1.28. Construction Progress Schedule

A. The critical path schedule for performance of the Contract; showing the time for completing the Work within the Contract Times; the planned sequence for performing the various components of the Work; the interrelationship between the activities of the Contractor, A/E, and CMHA; and the Contractor's resource and cost loading information; as periodically updated during the performance of the Work.

23.1.29. Contract

A. The contract entered into between the Contractor and CMHA.

B. It includes:

i. The Bid;

ii. The Bid Bond;

iii. The Performance and Payment Bond or Bonds or other assurance of completion;

iv. The Certifications, Representations, and Other Statements of Bidders;

v. The HUD General Conditions of the Contract for Construction;

vi. The CMHA Construction Contract General Terms and Conditions;

vii. The applicable wage rate determinations from the U.S. Department of Labor;

viii. Any special conditions included elsewhere in the contract;

ix. The specifications; and

x. Drawings

C. It includes all formal changes to any of those documents by addenda, Change Order or modification.

23.1.30. Contract Documents

A. Collectively, the documents that constitute the substance of the Contract including, but not limited to:

i. The Bid;

ii. The Bid Bond;

iii. The Performance and Payment Bond or Bonds or other assurance of completion;

iv. The Certifications, Representations, and Other Statements of Bidders;

v. The HUD General Conditions of the Contract for Construction;

vi. The CMHA Construction Contract General Terms and Conditions;

vii. The applicable wage rate determinations from the U.S. Department of Labor;

viii. Any special conditions included elsewhere in the contract;

ix. The specifications; and

x. Drawings

B. It includes all formal changes to any of those documents by addenda, Change Order or modification.

23.1.31. Contract Commencement Date

A. The date established in the Notice to Proceed issued by CMHA to the Contractor to mark the start of the Work and the beginning of the running of the Contract Time. If a Notice to Proceed is not issued, the Contract Commencement Date shall be the effective date of the Contract.

23.1.32. Contract Completion Date

A. The date by which the Work must be finally complete

B. The Contract Completion Date is established in Section 9.8 herein.

23.1.33. Contract Sum

A. The Contractor's entire compensation for the Contractor's proper, timely, and complete performance of the Work and is subject to adjustment as provided in the Contract.

23.1.34. Contract Time

A. The periods stipulated in the Agreement for the achievement of associated Milestones and Substantial Completion, in consecutive days, beginning on the date established by the Notice to Proceed, including adjustments authorized by executed Change Orders.

23.1.35. Contractor

A. The person or other entity entering into the Contract with CMHA to perform all of the work required under the Contract.

23.1.36. Contractor Payment Application Request

A. The form furnished by CMHA that is to be used by the Contractor in requesting payments and which, when signed by the Contractor, shall serve as an affidavit that payments requested are in proportion to the Work completed as shown on the Schedule of Values.

23.1.37. Contractor's Documents

A. All Project-related documents, including those in electronic form, prepared by the Contractor and its Subcontractors.

23.1.38. Contractor's Fee

A. The portion of the Contract Sum attributable to the aggregate of the Contractor's profit and home-office overhead related to the Contractor's proper, timely, and complete performance of the Work.

23.1.39. Contractor's Punch List

A. A document prepared by the Contractor that consists of a list of items of Work to be completed or corrected by the Contactor as a condition precedent to Contract Completion.

23.1.40. Coordination Drawings

A. Drawings and Electronic Files prepared by the Contractor to demonstrate how multiple-system and interdisciplinary work will be coordinated.

B. Clash reports generated by BIM authoring software may be included in the Coordination Drawing submittals if applicable.

23.1.41. Correction Period

A. A period of one-year commencing on the date of Substantial Completion of the Work or a designated portion of the Work which CMHA has agreed to take Partial Occupancy.

23.1.42. Day

A. A calendar day of twenty-four (24) hours measured from midnight to midnight, unless otherwise expressly specified to mean a business day.

23.1.43. Defective Work

A. Work that:

i. Does not conform to the Contract Documents;

ii. Does not meet the requirements of any applicable statute, rule or regulation, inspection, reference standard, test or approval;

iii. Has been damaged prior to the A/E's recommendation of final payment, unless responsibility for the protection thereof has been expressly assumed by CMHA; or

iv. That is not free from defects in workmanship, materials or equipment during the period of any warranty or guarantee

23.1.44. Differing Site Condition

A. Subsurface or latent physical conditions at the site which differ materially from those indicated in this Contract; or

B. Unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract Documents.

23.1.45. Drawings

A. The drawings enumerated in the schedule of drawings contained in the Specifications and as described in the Contract Documents; and

B. Graphic portions of the Contract Documents, showing the design, type of construction, location, dimension, and character of the Work to be provided by the Contractor, which generally includes plans, elevations, sections, details, schedules, diagrams, notes, and text.

23.1.46. Electronic File

A. Information maintained in a computer system or format that is intended to facilitate a Person's use and manipulation of the information including but not limited to Word, Excel, PDF, Primavera, CAD, and BIM files all in their native format.

23.1.47. Enclosure, Permanent

A. The condition in which the permanent exterior walls and roofs are in place, insulated, weatherproof and weather-tight, and permanent windows and entrances are in place

23.1.48. Enclosure, Temporary

A. The condition in which the permanent exterior walls and roofs are in place, insulated, weatherproof and weather-tight, and windows and entrances are provided with suitable temporary enclosures

23.1.49. Estimated Construction Cost

A. The sum of the Estimated Contract Cost amounts published in the Solicitation, as modified by Addenda, for a phase of the Project.

23.1.50. Estimated Contract Cost

A. The estimated amount for the Contract published in the Solicitation, including the Base Bid estimate and the estimates of selected Alternates, if any, as modified by Addenda.

23.1.51. Extra Materials

A. Materials required by the Contract Documents that are not incorporated into the Project but are given to CMHA to be used for future maintenance or repairs.

23.1.52. Final Inspection

A. The final review of the Work of the Contractor by the A/E and CMHA to determine whether issuance of the Certificate of Contract Completion will be issued by CMHA.

23.1.53. Frivolous RFI

A. RFI's that request information that is evident in the Contract Documents and/or RFI's that do not comply with the definition of an RFI as indicated below.

23.1.54. General Conditions

A. CMHA's General Conditions currently in effect, which may be modified by the CMHA from time to time.

23.1.55. General Conditions Costs

A. General Conditions Costs include only the Contractor's costs to provide the general conditions Work including without limitation the costs of all of the following Site related items:

i. Scheduling and coordinating the Work;
ii. Telephone;
iii. Telephone charges;
iv. Facsimile;
v. Telegrams;
vi. Postage
vii. Photos
viii. Photocopying;
ix. Hand tools;
x. Simple scaffolds (one level high);
xi. Tool breakage;
xii. Tool repairs;
xiii. Tool replacement;
xiv. Tool blades;
xv. Tool bits; and
xvi. Pre-approved travel, lodging, and parking costs

B. General Conditions Costs also include:

i. Bond premiums; and
ii. Premiums for Builder's Risk insurance, if the Contractor is required to purchase Builder's Risk insurance policy for the Project.

23.1.56. Hazardous Materials

A. Any material, substance, pollutant, or contaminant that is defined, regulated, referenced, or classified in the Comprehensive Environmental Response, Compensation and Liability Act, Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, Clean Air Act, Hazardous Materials Transportation Uniform Safety Act, Toxic Substances Control Act, or any other Applicable Law relating to any hazardous, toxic, or dangerous waste, substance, or material.

B. Any substance or material that, after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will, or may reasonably be anticipated to, cause death, disease, behavior abnormalities, cancer or genetic abnormalities and specifically includes but is not limited to asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde.

23.1.57. HUD

A. The United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf.

B. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to CMHA, which includes assistance in financing the work to be performed under this Contract.

C. As defined elsewhere in Contract Documents, the determination of HUD may be required to authorize changes in the work or for release of funds to CMHA for payment to the Contractor.

D. Notwithstanding HUD's role, nothing in this Contract shall be construed to create any contractual relationship between Contractor and HUD.

23.1.58. Indemnified Parties

A. CMHA, the A/E, other Separate Consultants, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.

23.1.59. Install

A. Put into use or place in final position, complete and ready for intended service or use.

23.1.60. Liquidated Damages

A. A sum established in the Contract Documents, pursuant to the statutory delay forfeiture authorized under ORC and federal regulations, to be paid to CMHA due to the Contractor's failure to complete the Work within the Contract Time for achievement of Substantial Completion, or any applicable portion of the Work on or prior to any Milestone date stated on the Contract Documents.

23.1.61. Material Supplier

A. A Person under a contract with the Contractor to furnish materials or supplies in furtherance of the Work, including all such Persons in any tier.

B. Material Supplier does not include any Separate Contractor unless expressly assigned in writing to the Contractor by CMHA and accepted by the Contractor.

23.1.62. Milestone

A. A principal event specified in the Contract relating to an intermediate completion date or time prior to Substantial Completion of all Work.

23.1.63. Modification

A. A written amendment to the Contract signed by both parties;

B. A Change Order;

C. A Change Directive; or

D. An order for a minor change in the Work.

23.1.64. Notice of Commencement

A. A notice prepared by CMHA identifying the Project, the Contractors, the Surety for each Contractor, and the name CMHA's representative upon whom a Claim Affidavit may be served.

23.1.65. Notice of Intent to Award

A. A written notice provided by CMHA to the apparent successful Bidder stating that upon satisfactory compliance with all conditions precedent for execution of a Contract within the time specified CMHA intends to execute a Contract with the Bidder.

23.1.66. Notice to Proceed

A. A written notice provided by CMHA authorizing the Contractor to proceed with the Work and establishing the date(s) for commencement and completion of the Work.

23.1.67. ORC

A. The Ohio Revised Code.

23.1.68. Owner

A. The Cincinnati Metropolitan Housing Authority or its instrumentality or affiliate for whom the Project is being constructed.

23.1.69. Owner's Project Requirements

A. A written document that details the functional requirements of the Project and the expectations of how it will be used and operated

B. These include project goals, measureable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.

23.1.70. Partial Occupancy

A. The condition that occurs when CMHA occupies or uses a portion of the Project prior to Contract Completion, partial occupancy is approved by authorities having jurisdiction, and items of Work cannot be completed until a subsequent date.

23.1.71. Person

A. An individual, corporation, business trust, estate, partnership, association, or other public or private entity.

23.1.72. Phase

A. A separation in the Work of the Project by sequence or time intervals, which may include separate contractors for each Phase.

23.1.73. Plan Holder

A. A prospective Bidder that received a set of Contract Documents prior to the bid opening.

23.1.74. Product Data

A. Manufacturer's standard illustrations, schedules, diagrams, performance charts, instructions, and brochures that illustrate physical appearance, size, and other characteristics of materials and equipment.

23.1.75. PHA

A. A Public Housing Authority which at all times shall mean the Cincinnati Metropolitan Housing Authority unless otherwise specified in the Contract Documents.

23.1.76. Project

A. The entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under the Contract Documents.

23.1.77. Project Manager

A. An employee of CMHA assigned to the Project and authorized to perform specific responsibilities.

B. A Project Manager may also be referred to as a Construction Manager or Construction Contract Administrator.

23.1.78. Project Record Documents

A. Electronic files and printed documents of all nature prepared by the A/E, which incorporate the information shown on the Contractor's As-Built Documents.

B. They consist of:

i. The "Record Drawings";
ii. Certificate of Substantial Completion;
iii. Certificate of Contract Completion (as complete);
iv. Contractor's Warranty;
v. Manufacturers' Warrantees, certificate(s) of occupancy, approved shop drawings and other action submittals;
vi. Proposal Requests;
vii. Requests for Interpretation;
viii. Addenda;
ix. Change Orders;
x. Balancing Reports; and
xi. The final version of the approved Construction Progress Schedule

23.1.79. Proposal

A. The offer of a Contractor to perform the Work set forth in a Proposal Request.

23.1.80. Provide

A. Furnish and install, complete and ready for intended use.

23.1.81. Punch List

A. A document listing items of Work requiring correction or completion by the Contractor as a condition precedent to Contract Completion.

23.1.82. Record Drawings

A. Synonymous to As-Build Drawings; and,

B. The Drawings, which have been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.

23.1.83. Request for Interpretation/Information (RFI)

A. A written request to CMHA or the A/E seeking an interpretation or clarification of the Contract Documents.

23.1.84. Samples

A. Physical examples, color selection items, field samples, and mock-ups furnished by the Contractor to illustrate functional and aesthetic characteristics of products, materials, equipment, or workmanship and establish criteria by which the Work shall be judged.

23.1.85. Schedule of Values

A. A full, accurate, and detailed statement furnished by the Contractor reflecting a defined breakdown of the Contract Sum.

23.1.86. Separate Consultant

A. A Person engaged by CMHA to provide Project-related professional services other than the services under this Contract.

B. The term includes the Separate Consultant's authorized representatives, successors, assigns, and sub-consultants regardless of tier.

23.1.87. Separate Contract

A. The contract between CMHA and a Separate Consultant or a Separate Contractor.

23.1.88. Separate Contractor

A. A Person under contract CMHA to provide Project related work other than the Work under this Contract.

B. The term includes the Separate Contractor's authorized representatives, successors, assigns, and subcontractors regardless of tier.

23.1.89. Shop Drawings

A. Drawings, diagrams, illustrations, and schedules specifically prepared for the Project provided by the Contractor or a Subcontractor to illustrate some portion of the Work.

B. Shop Drawings are not Contract Documents.

C. Shop Drawings on equipment shall include a written statement from the manufacturer of the equipment certifying the equipment is in compliance with the Contract Documents.

23.1.90. Site

A. The location designated for the Project.

23.1.91. Specifications

A. The written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.

23.1.92. Stage

A. A distinct period in the life cycle of a facility from concept through construction, to use and deconstruction or demolition.

B. Typical Stages include Program Verification, Schematic Design, Design Development, Construction Documents, Bidding and Award stages; and the Construction, which includes Construction and Closeout activities.

23.1.93. Subcontract

A. Any contract or agreement between the Contractor and a Subcontractor for performance of a portion of the Work.

23.1.94. Subcontract Form

A. The Subcontract Form prescribed CMHA and required for use by Contractor when engaging Subcontractors.

23.1.95. Subcontractor

A. A Person who undertakes to perform any part of the Work on the Project under a contract with a Contractor or with any Person other than the State, including all such Persons in any tier.

B. The term "Subcontractor" includes Material Suppliers, but does not include any Separate Contractor unless expressly assigned in writing to the Contractor by CMHA and accepted by the Contractor.

23.1.96. Supplementary Conditions

A. Amendments to the CMHA Construction Contract General Terms and Conditions, issued as a separate document, prescribed by CMHA, which describes conditions of the Contract unique to a particular Project, which may include:

i. Provisions regarding the assignment of responsibility for refuse removal;

ii. Safety and security precautions and programs;

iii. Temporary Project facilities and utilities;

iv. Weather and fire protection;

v. Scaffolding and equipment;

vi. Materials and services to be used commonly by the Contractor and Subcontractors and requiring the Contractor to provide assistance in the utilization of any applicable equipment system;

vii. Preparation of operation and maintenance manuals; and

viii. Training of CMHA personnel for operation and maintenance of the Project

B. The CMHA Construction Contract General Terms and Conditions shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions.

23.1.97. Surety

A. A Person providing a Bid Guaranty or a Bond to a Bidder or a Contractor, as applicable, to indemnify CMHA against all direct and consequential damages suffered by failure of the Bidder to execute the Contract, or of the Contractor to perform the Contract and to pay all lawful claims of Subcontractors, Material Suppliers and laborers, as applicable.

23.1.98. Substantial Completion

A. The stage in the progress of the Work when the Work (or designated portion of the Work for which CMHA has agreed to take Partial Occupancy) is sufficiently complete in accordance with the Contract that CMHA can utilize the Work for its intended use, as determined by CMHA.

B. The issuance of a certificate of occupancy or partial certificate of occupancy (if applicable) is a condition precedent to the achievement of Substantial Completion.

23.1.99. Substitution

A. An article, device, material, equipment, form of construction, or other item, proposed by a prospective Bidder prior to the bid opening and approved by the A/E by Addendum, for incorporation or use in the Work as being functionally and qualitatively equivalent to essential attributes of a Basis of Design or Acceptable Component specified in the proposed Contract Documents.

23.1.100. Unit Price

A. The cost of providing a unit of Work including labor, materials, services, and associated expenses.

23.1.101. Work

A. The labor, materials, workmanship, manufacture or fabrication of components, equipment, and services, individually or collectively which are required by the Contract Documents, to be performed, installed, or provided by the Contractor for the Project.

B. The furnishing of all material, labor, detailing, layout, supplies, plants, tools, scaffolding, transportation, temporary construction, superintendence, demolition, and all other services, facilities and items reasonably necessary for the full and proper performance and completion of the requirements of the Project as set forth in the Contract Documents, and items reasonably inferable therefrom and consistent therewith for the proper execution and completion of the construction and other services required by the Contract Documents, whether provided or to be provided by the Contractor or a Subcontractor, or any other entity for whom the Contractor is responsible, and whether or not performed or located on or off of the Site.

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CINCINNATI METROPOLITAN HOUSING AUTHORITY

AND

_____

Contractor

Contract No. 2018-3018

This Contract is made and entered into between the Cincinnati Metropolitan Housing Authority, hereinafter referred to as "Owner" and the below named, hereinafter referred to as "CONTRACTOR."

Contractor's name_____

Contractor address_____

1. PURPOSE AND BACKGROUND

OWNER is the 17th largest public housing authority in the United States. OWNER's Asset Management Portfolio of properties are owned and operated by OWNER.

The purpose of this contract is for the Contractor to provide construction services at OWNER's Evanston property further described in Exhibit A.

2. STATEMENT OF WORK

The Contractor shall furnish the personnel, material, and/or services and otherwise do all things necessary for or incidental to the performance of the work set forth in Exhibit A.

Exhibit B contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between OWNER and the Contractor, and specific obligations of both parties.

3. APPLICABLE DOCUMENTS

This contract includes all relevant terms in Solicitation 2018-3018: Park Eden – Interior Lighting Replacement, the Contractor's submitted Proposal and all documents, policies, and documents incorporated by reference. All documents, sections, exhibits, clauses, terms and provisions of this Performance Based Contract shall be read so as to be consistent to all extent practicable. In the event that any document, section, clause, exhibit, term or provision of this Contract conflicts with any provision of any of the above mentioned

applicable document, the provision of the instruments listed below shall take precedence in the following order:

A. Applicable Federal and State of Ohio statutes and regulations
B. This Instrument (Performance Based Contract)
C. Solicitation 2018-3018
D. The Contractor's Proposal
E. Other Documents incorporated by reference (if applicable)

4. PERIOD OF PERFORMANCE

Subject to other Contract provisions, the period of performance under this Contract shall be from as indicated in the Notice to Proceed, unless sooner terminated or extended as provided herein.

5. COMPENSATION AND PAYMENT

Billing and payment shall be accomplished in accordance with the Contract. OWNER shall pay an amount not to exceed the amounts listed in the Exhibit C, Performance Requirement Summary, for the performance of all things necessary for, or incidental to the performance of work as set forth in Exhibit A, the Statement of Work.

Payment shall be contingent upon review and acceptance of the Contractor's Deliverables by OWNER. Compensation for services shall be based on Exhibit C, Performance Requirement Summary.

OWNER will pay Contractor within 30 days of receipt of properly completed invoices or acceptance of deliverable, whichever is later. Invoices shall be submitted to the Construction Manager or designated not more often than monthly. The invoice shall reference Contract No. 2018-3018, describe and document to OWNER's satisfaction as description of the deliverable accepted by OWNER and the fixed price cost per deliverable. OWNER may, in its sole discretion, withhold payments claimed by Contractor for services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract. Invoices shall be sent to 1627 Western Ave., Cincinnati, OH 45214

6. WARRANTIES

Contractor warrants that its services and materials provided will be of good quality and consistent with the professional skill and care ordinarily provided by professionals performing the same or similar service and such services and materials shall be provided in accordance with generally accepted industry standards.

At all times Contractor shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services under this Contract.

7. UNIFORMS

OWNER shall provide ID Badges for contractors working on OWNER Properties. No employee of the Contractor will be allowed on OWNER properties unless said employee possesses identification that person is an employee/contractor of _____ _____.

9. EXECUTIVE REVIEW

This Contract shall be subject to the written approval of OWNER's authorized representative and shall not be binding until so approved.

IN WITNESS WHEREOF, this PROFESSIONAL SERVICES AGREEMENT has been

executed by OWNER and _____ to take effect on _____.
Contractor Date

CINCINNATI METROPOLITAN HOUSING AUTHORITY

_____
Contractor

By: _____

_____
DATE

By: _____

_____
DATE

SOLICITATION NO. 2018-3018
EXHIBIT A
STATEMENT OF WORK

Contractor is to provide construction services as outlined in Solicitation 2018-3018. Services to be provided will include, but are not limited to:

1. The removal and disposal of the necessary components and the installation of the specified LED Retrofit Kits in the existing 4 ft. fluorescent fixtures.
2. The removal and disposal of the existing of 2'x 2' and 2'x 4' fluorescent lighting fixtures within the drops ceilings, and the installation of the specified 2'x 2' and 2'x 4' LED Flat Panels.
3. The removal and disposal of the existing flush mount fixtures, and the installation of the specified Flush Mount Fixtures and LED Bulbs.
4. The removal and disposal of existing bulbs, and the installation of the specified LED Bulbs.

EXHIBIT B -1
GENERAL TERMS AND CONDITIONS

The following terms supplement the United States Department of Housing and Urban Development General Conditions for Non-Construction Contracts form HUD-5370-C Section I. All terms and provisions of form HUD-5370-C, attached hereto, are hereby incorporated by reference into this Contract and shall be binding upon the Parties unless expressly stated otherwise below.

1. INDEMNIFICATION

Contractor hereby agrees to protect, defend, indemnify and hold harmless CINCINNATI METROPOLITAN HOUSING AUTHORITY, its officers, employees, agents, and Board of Commissions from and against all losses, liabilities and any and all claims of whatever kind, nature or description which may be asserted or claimed against CINCINNATI METROPOLITAN HOUSING AUTHORITY indemnities which arises from any act or omission of Contractor, its subcontractors, directors, officers and employees or results from any breach or violation by Contractor, its directors, officers, or employees. Contractor agrees, at its own expense, to pay the full cost thereof, including attorney's fees, if any, incurred by CINCINNATI METROPOLITAN HOUSING AUTHORITY in defending any claim and shall pay any judgment rendered, with respect to the subject of the indemnity contained herein as well as any allegation of libel, slander, invasion of privacy, any failure to obtain any necessary release, permission or clearance, or any other cause of action or claim arising out of materials and elements provided for by Contractor under this Contract. Contractor will be liable, at all times, for damages or destruction of Contractor's equipment and materials, regardless of how such damage occurs. CINCINNATI METROPOLITAN HOUSING AUTHORITY will be under no liability to reimburse Contractor for any such loss. If Contractor insures its equipment and material against physical loss of damage, then Contractor agrees to secure, if required in such insurance, a waiver of subrogation in favor of CINCINNATI METROPOLITAN HOUSING AUTHORITY.

2. INSURANCE REQUIREMENTS

Contractor shall obtain and maintain at all times during the term of this contract, insurance in the following kinds and amounts:

a) Workers' Compensation Insurance as required by state statute and Employer's Liability Insurance covering all of Contractor's employees acting within the course and scope of this Contract.

b) Commercial General Liability Insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum single limit of $500,000.

c) Automobile Liability Insurance covering any auto with a minimum single limit of $1,000,000.

CINCINNATI METROPOLITAN HOUSING AUTHORITY shall be named as additional insured on the Commercial General Liability Insurance policy. Coverage required of this Contract will be primary over any insurance or self-insurance carried by CINCINNATI METROPOLITAN HOUSING AUTHORITY.

The Insurance shall contain provisions preventing cancellation or non-renewal without at least 45 days notice to CINCINNATI METROPOLITAN HOUSING AUTHORITY and stating that the carrier will waive all rights of recovery, under subrogation or otherwise, against CINCINNATI METROPOLITAN HOUSING AUTHORITY, its office, agents, employees or Board of Commissioners.

Contractor shall provide certificates evidencing such coverage as required by this Contract to CINCINNATI METROPOLITAN HOUSING AUTHORITY upon execution of this Contract and annually thereafter evidencing renewals thereof. At any time during the term of this Contract, CINCINNATI METROPOLITAN HOUSING AUTHORITY may request, in writing, and the Contractor shall thereupon within 10 days supply to CINCINNATI METROPOLITAN HOUSING AUTHORITY

evidence satisfactory of compliance with the provision of this section.

3. GOVERNING LAW

This Contract must be governed and construed exclusively by its terms and by the laws of the State of Ohio and any suit filed to enforce any term of this Contract shall be filed only in a court of competent jurisdiction in Hamilton County, Ohio.

4. ASSIGNABILITY

The rights and obligations of Contractor are personal and may be performed only by Contractor. Contractor shall not assign any interest rights or obligations under this Contract without prior written consent of CINCINNATI METROPOLITAN HOUSING AUTHORITY. Any purported assignment that does not comply with this provision is void. This Contract is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.

5. SEVERABILITY

If any provision of this Contract is determined by a court having jurisdiction to be unenforceable to any extent, the rest of the provisions of this Contract will remain enforceable to the fullest extent permitted by law.

6. FORCE MAJEUR

Neither party shall be liable for failure to perform if such failure is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

7. AMENDMENTS/MODIFICATIONS

Any amendments or modifications of this Contract must be made in writing and signed by all Parties.

8. WAIVERS

If either party does not seek compensation for breach or insist upon strict performance of any provision of this Contract, that Party is not prevented from seeking compensation or insisting upon strict performance for a future breach of the same or similar provision.

9. HEADINGS

The headings, titles, and captions in this Contract are inserted for convenience only and are in no way intended to describe, interpret, define, prioritize or limit the scope, extent, or intent of this Contract or any provision herein.

10. NONDISCRIMINATION

During the performance of this Contract, Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

11. PRIVACY

Any Personal information collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss. Contractor shall ensure that its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor agrees not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without express written consent of CINCINNATI METROPOLITAN HOUSING AUTHORITY or otherwise required by law. Contractor agrees to indemnify and hold harmless CINCINNATI METROPOLITAN HOUSING AUTHORITY for any damages related to Contractor's unauthorized use of personal information.

12. PUBLICITY

Contractor agrees to submit to CINCINNATI METROPOLITAN HOUSING AUTHORITY all advertising and publicity related matter relating to this Contract wherein CINCINNATI METROPOLITAN HOUSING AUTHORITY's name is mentioned or language used from which the connection of CINCINNATI METROPOLITAN HOUSING AUTHORITY's name may, in CINCINNATI METROPOLITAN HOUSING AUTHORITY's judgment, be inferred or implied. Contractor shall not publish or use such advertising and publicity matters without prior express written consent of CINCINNATI METROPOLITAN HOUSING AUTHORITY.

EXHIBIT C-1
PERFORMANCE REQUIREMENT SUMMARY

Required Service	Timeframe	Performance Fees
1. Name of Service/Task		
Task & Standard: Contractor must provide all items as delineated in the attached Exhibit A Statement of Work or payment will not be rendered.	90 days after start of construction as determined in the Notice to Proceed.	

Required Service	Timeframe	Performance Fees
2. Name of Service/Task		
Task & Standard: Project Planning		
Deliverables: 1. General conditions, bond fee, mobilization, permit fees, insurance, etc.	Refer to project schedule	• Performance fee of up to 10% of the total bid, contingent upon meeting the deliverable described.

Required Service	Timeframe	Performance Fees
3. Name of Service/Task		
Task & Standard: Completion of Basement & 1st floor		
Deliverable: 1. As outlined in the Schedule of Values (HUD 51000) 2. Completion of prior Services/tasks.	Refer to project schedule	• Performance fee of up to 30% of the total bid, contingent upon meeting the deliverable described.

Required Service	Timeframe	Performance Fees
4. Name of Service/Task		
Task & Standard: Completion of 2nd & 3rd floor.		
Deliverables: 1. As outlined in the Schedule of Values (HUD 51000) 2. Completion of prior Services/tasks.	Refer to project schedule	• Performance fee of up to 50% of the total bid, contingent upon meeting the deliverable described.

Required Service	Timeframe	Performance Fees
5. Name of Service/Task		
Task & Standard: Completion of 4th, 5th, & 6th floor.		
Deliverables: 1. Refer to Specification 1700: Closeout Procedures for Substantial Completion requirements. 2. Completion of prior Services/tasks..	Refer to project schedule	• Performance fee of up to 70% of the total bid, contingent upon meeting the deliverable described.

Required Service	Timeframe	Performance Fees
6. Name of Service/Task		
Task & Standard: Completion of 7th, 8th, & 9th floor.		
Deliverables: 1. Refer to Specification 1700: Closeout Procedures for Substantial Completion requirements. 2. Completion of prior Services/tasks..	Refer to project schedule	• Performance fee of up to 90% of the total bid, contingent upon meeting the deliverable described.

Required Service	Timeframe	Performance Fees
6. Name of Service/Task		
Task & Standard: Final Payment		
Deliverables: 1. Refer to Specification 01 7700: Closeout Procedures. 2. Completion of prior Services/tasks.	Maximum of 90 days after start of construction or as amended through change orders.	• Performance fee of up to 100% of the total bid, contingent upon meeting the deliverable described.

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Exhibit D

CONTRACTOR ACKNOWLEDGEMENT

I acknowledge receipt of the Contract No. 2018-3018 and the following exhibits:

EXHIBIT	SIGNATURE
Exhibit A: Statement of Work	
Exhibit B-1:CMHA General Terms and Conditions	
Exhibit B-2: General Conditions for Construction Contracts – Public Housing Programs (from HUD 5370)	
Exhibit C: Performance Requirement Summary	

Contractor accepts the terms and conditions of the Contract and attached Exhibits A-C.

_____ _____

Signature Date

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WAGE DETERMINATION

A. The Prevailing Wages shall be paid for a legal day's work to laborers, workmen or mechanics engaged in work under this Contract, at the site of the Project, in the trade or occupation listed.

B. The Wage Determinations provided shall be closely monitored by the contractor/bidder/quoter for any modifications until the actual construction work begins locking in the wage determination for the duration of the contract. Wage determinations and modifications can be monitored and obtained at www.wdol.gov. Failure to include the current wage determination will not relieve the contractors of potential wage liabilities.

C. It shall be the Prime Contractor's responsibility to verify the accuracy of the reported wages, including his subcontractors.

D. It shall be the Contractors responsibility to be certain that all the classifications needed to accomplish the contract fall underneath one of the classifications listed on the Wage Determination provided in the scope of work.

E. In the event that a required classification is not listed, a contractor may submit a request for an additional classification. Remember the request is not valid unless the Department of Labor approves it. There will be no justification for an adjustment to a contract price due to an increased wage rate. The contractor should have been aware of any particular skilled trades that were not included in the original wage determination and thus accepted any risk that DOL would " conform" a pay rate higher than what they estimated when they priced their proposal. The contractor is responsible to propose wage/benefit rates that "bear a reasonable relationship" to the other classifications and rates listed on the wage determination.

F. The following pages are the Prevailing Rates of Wages as ascertained by the State or other Agency for this Project.

G. Listed below is a checklist of items required for Wage and Hour Compliance.

H. Remember, prompt correction of deficiencies is essential. Failure to correct in a timely manner will be the withholding of payments on your contract until the deficiencies are corrected. For your convenience listed below is a checklist of items required:

- ☐ Appointment of Paymaster
- ☐ Equal Employment Opportunity Affirmative Action Policy Statement *(EEOAAPS*)
- ☐ Equal Employment Opportunity Compliance Certificate (*EEOCC*)
- ☐ Letter of Understanding
- ☐ Weekly certified payrolls that include:
  - ☐ Contractor's Name
  - ☐ Contractor's Address
  - ☐ Payroll #
  - ☐ Week Ending Date
  - ☐ Project and Location
  - ☐ Contract or Purchase Order No.
  - ☐ Name of Employee
  - ☐ Social Security Number/Address of Employee
  - ☐ No. of Exemptions
  - ☐ Work Classification
  - ☐ Calendar Days
  - ☐ Hours Worked
  - ☐ Total Hours
  - ☐ Rate of Pay
  - ☐ Gross Amount Earned
  - ☐ Taxes or Write 1099 across columns if employee files his own taxes
  - ☐ Statement of Compliance (*back page of the payroll sheet*)
  - ☐ One of the boxes checked indicating if fringes benefits are paid in cash or approved program
  - ☐ Contractor's Signature certifying payroll

- ☐ General and Subcontractors form (*if applicable*)
- ☐ Employment Utilization Report (*upon completion*)
- ☐ Section 3 Form (*if applicable*)

_____

Signature *Date*

Note: Quotes may not be accepted if this form is not acknowledged and signed.

General Decision Number: OH190082 01/25/2019 OH82

Superseded General Decision Number: OH20180103

State: Ohio

Construction Type: Building

County: Hamilton County in Ohio.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate,if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019
1	01/18/2019
2	01/25/2019

ASBE0008-010 07/01/2018

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR	$ 30.27	17.20

BROH0018-008 09/01/2017

	Rates	Fringes
BRICKLAYER	$ 27.81	13.01
TILE FINISHER	$ 23.88	13.08
TILE SETTER	$ 28.43	13.12

CARP0002-008 05/01/2017

	Rates	Fringes
CARPENTER (Accoustical Ceiling Installation Only)	$ 24.04	15.29

CARP0002-014 05/01/2017

	Rates	Fringes
CARPENTER (Including Drywall Hanging, Metal Stud Installation and Form Work; Excludes Acoustical Ceiling Installation)	$ 30.42	16.99

ELEC0212-010 06/04/2018

	Rates	Fringes
ELECTRICIAN (Excludes Low Voltage Wiring)	$ 28.39	18.98

ELEV0011-002 01/01/2019

	Rates	Fringes
ELEVATOR MECHANIC	$ 45.73	33.705+a+b

PAID HOLIDAYS:

a. New Year's Day, Memorial Day, Independence Day, Labor Day, Vetern's Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for less than 5 years' service.

ENGI0018-036 05/01/2018

	Rates	Fringes
POWER EQUIPMENT OPERATOR Backhoe/Excavator/Trackhoe; Bulldozer; Crane	$ 36.14	14.81

ENGI0018-037 05/01/2018

	Rates	Fringes
POWER EQUIPMENT OPERATOR Bobcat/Skid Steer/Skid Loader	$ 36.14	14.81

ENGI0066-045 06/01/2017

	Rates	Fringes

POWER EQUIPMENT OPERATOR
Forklift.....$ 28.87 19.66
Grader/Blade.....$ 32.42 19.66
Mechanic.....$ 32.92 19.66

IRON0044-003 06/01/2017

	Rates	Fringes
IRONWORKER, REINFORCING	$ 27.60	20.70

IRON0044-019 06/01/2018

	Rates	Fringes
IRONWORKER (Ornamental and Structural)	$ 28.17	21.20

LABO0265-017 06/01/2018

	Rates	Fringes
LABORER		
Common or General	$ 22.45	16.20

LABO0265-019 06/01/2018

	Rates	Fringes
LABORER		
Mason Tender - Brick	$ 21.95	16.20

PAIN0123-001 05/01/2018

	Rates	Fringes
PAINTER (Brush and Roller)	$ 24.61	9.74

PAIN0387-002 11/01/2017

	Rates	Fringes
GLAZIER	$ 26.00	14.15

PLAS0132-018 06/01/2018

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 23.65	14.45

PLAS0132-019 06/22/2018

	Rates	Fringes
PLASTERER	$ 24.25	14.65

PLUM0392-005 06/01/2018

	Rates	Fringes

PIPEFITTER (Includes HVAC Pipe Installation)	$ 32.01	19.67
PLUMBER (Excludes HVAC Pipe Installation)	$ 32.01	19.67

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* ROOF0042-007 08/01/2018

	Rates	Fringes
ROOFER	$ 27.50	15.57

SFOH0669-009 04/01/2017

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers)	$ 36.33	15.84

SHEE0024-029 06/01/2017

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation Only)	$ 27.67	20.48

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* UAVG-OH-0021 01/01/2018

	Rates	Fringes
OPERATOR: Oiler	$ 27.17	16.35

SUOH2012-084 08/29/2014

	Rates	Fringes
ELECTRICIAN (Low Voltage Wiring Only)	$ 22.28	8.63
LABORER: Asphalt, Includes Raker, Shoveler, Spreader and Distributor	$ 26.19	8.99
LABORER: Landscape & Irrigation	$ 23.60	0.87
LABORER: Mason Tender - Cement/Concrete	$ 23.87	9.80
LABORER: Pipelayer	$ 23.18	8.95
OPERATOR: Loader	$ 29.66	12.61
OPERATOR: Paver (Asphalt, Aggregate, and Concrete)	$ 30.28	13.29
OPERATOR: Roller	$ 29.85	12.00
PAINTER: Spray	$ 22.78	12.40

TRUCK DRIVER: Dump (All Types)...$ 24.32 11.73

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the

Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

SECTION 01010 - SUMMARY

PART 1 - GENERAL

1.1 SUMMARY

A. This Section includes the following:
   1. Work covered by the Contract Documents.
   2. Work phases.
   3. Work under other contracts.
   4. Use of premises.
   5. Owner's occupancy requirements.
   6. Specification formats and conventions.

1.2 WORK COVERED BY CONTRACT DOCUMENTS

A. Project Identification: Park Eden – Interior Lighting Replacement

B. Project Location: 2610 Park Ave - Cincinnati, OH 45206

C. Owner: Cincinnati Metropolitan Housing Authority, 1627 Western Avenue - Cincinnati, OH 45214

D. The Work generally consists of, but is not limited to the following.
   Removal and replacement of specified fixtures and bulbs
   Installation of LED retrofit kits in specified fixtures

E. Project will be constructed under one general contract. The contract period shall be **90 calendar days** for completion from the Notice to Proceed.

F. Owner Salvage Rights- The owner shall have the right to salvage any and all components and equipment. The salvage of any/all components shall be conducted by the owner prior to the building being turned over to the contractor.

1.3 WORK UNDER OTHER CONTRACTS

A. General: Cooperate fully with separate contractors so work on those contracts may be carried out smoothly, without interfering with or delaying work under this Contract. Coordinate the Work of this Contract with work performed under separate contracts.

B. Contract Documents: Project Manual and Drawings Dated February 4, 2019.

C. Discrepancies: If a discrepancy occurs between the drawings and the specifications the more expensive material, means or method shall be utilized. Contractor shall report all discrepancies to the owner immediately.

1.4 USE OF PREMISES

A. General: Contractor shall have limited use of premises for construction operations. Portions of the site will be occupied and the Contractor shall not interfere with the Owner's right to occupy and lease these portions of the site. The limits of the Contractor's use of the site will be determined by the Contractor's phasing plan, as approved by the Owner prior to construction.

B. Use of Existing Building: Maintain existing building in a weather tight condition throughout construction period. Repair damage caused by construction operations. Protect building and its occupants during construction period.

1.5 OWNER'S OCCUPANCY REQUIREMENTS

A. Owner Occupancy of Completed Areas of Construction: Owner reserves the right to occupy and to place and install equipment in completed areas of the site/buildings, before Substantial Completion, provided such occupancy does not interfere with completion of the Work. Such placement of equipment and partial occupancy shall not constitute acceptance of the total Work.
   1. Owner will prepare a Certificate of Substantial Completion for each specific portion of the Work to be occupied before Owner occupancy.
   2. Obtain a Certificate of Occupancy from authorities having jurisdiction before Owner occupancy.
   3. On occupancy, Owner will assume responsibility for maintenance and custodial service for occupied portions of building.

B. Building Occupancy: The contractor shall protect the ingress and egress from these buildings so that continued use will be permitted. No utilities shall be disrupted on these buildings. The Contractor shall take precautions to protect residents and others from injury during construction activities. The Contractor shall employ dust control measures to contain dust and debris to the building undergoing renovation. Noise shall be controlled to maximum extent possible during construction.

1.6 SPECIFICATION FORMATS AND CONVENTIONS

A. Specification Format: The Specifications are organized into Divisions and Sections using the 16-division format and CSI/CSC's "MasterFormat" numbering system.
   1. Division 1: Sections in Division 1 govern the execution of the Work of all Sections in the Specifications.

B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
   1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred, as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
   2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when

so noted. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

1.7 PERMITS

A. Permits, licenses, and Certificates: The owner shall pay for and obtain the General Building permit review. The contractor shall pay for and pick up the general building permit. The Contractor is responsible for applying and paying for all other permits, inspections, licenses and other regulatory requirements associated with this project (Plumbing, HVAC, Electrical, Zoning, and environmental). The cost of these permits, inspections, licenses and other regulatory requirements shall be included in each subcontractor's bid.

B. The Contractor shall be responsible for complying with all applicable codes and regulations governing the work of this contract, regardless of whether the scope of work required for compliance is described on the drawings, or described in the specifications.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01010

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SECTION 01040 - COORDINATION & SCHEDULING

1.1 GENERAL

A. This Section includes requirements for coordinating construction operations including, but not necessarily limited to, the following:
   1. Coordination drawings.
   2. Administrative and supervisory personnel.
   3. Required scheduling and milestones.
   4. Work in occupied units
   5. Cleaning and protection.

1.2 COORDINATION & SCHEDULING

A. Coordinate construction to assure efficient and orderly installation of each part of the Work. Coordinate operations that depend on each other for proper installation, connection, and operation.
   1. Schedule operations in the sequence required to obtain the best results where installation of one part depends on installation of other components, before or after its own installation.
   2. Coordinate installation of different components to assure maximum accessibility for maintenance, service, and repair.
   3. Make provisions to accommodate items scheduled for later installation.

B. Where necessary, prepare memoranda for distribution to each party involved, outlining procedures required for coordination. Include such items as required notices, reports, and attendance at meetings.
   1. Prepare similar memoranda for the Owner and separate contractors where coordination of their work is required.

C. Administrative Procedures: Coordinate scheduling and timing of required procedures with other activities to avoid conflicts and assure orderly progress. Such activities include, but are not limited to, the following:
   1. Preparation of schedules.
   2. Delivery and processing of submittals.
   3. Progress meetings.
   4. Project close-out activities.

D. Conservation: Coordinate construction to assure that operations are carried out with consideration for conservation of energy, water, and materials.

E. Site Security: The Contractor shall be responsible for the security of their equipment and supplies.

F. Scheduling: The Contractor shall prepare and submit for review, a detailed construction schedule in accordance with Section 01300, indicating all work and sequencing, and reflect the following milestones. The schedule shall be maintained and updated by the Contractor at least every month to reflect actual conditions. See HUD 5370 General Conditions and owner for Liquidated Damages. No work is permitted on Saturday, Sunday or national Holidays, except when

permitted in writing by the Owner. Note that no bonuses or additional compensation will be made for exceeding the indicated goals. The Contractor is responsible for scheduling work in a manner that will minimize disruption of the Owner's operations and those of the residents.

G. Staff Names: Within 15 days of commencement of construction, submit a list of the Contractor's staff assignments, including the superintendent and other personnel at the Project Site. Identify individuals and their responsibilities. List their addresses and telephone numbers.

1.3 PRODUCTS (Not Applicable)

1.4 EXECUTION

A. Inspection of Conditions: Require Installers to inspect substrate and conditions under which Work is to be performed. Contact the owner when deteriorated substrate conditions are uncovered. Do not proceed until unsatisfactory conditions have been corrected.

B. Coordinate temporary enclosures with inspections and tests to minimize the need to uncover completed construction.

C. Clean and protect construction in progress and adjoining materials, during handling and installation. Apply protective covering to assure protection from damage.

D. Clean and maintain completed construction as necessary through the construction period. Adjust and lubricate operable components to assure operability without damaging effects.

END OF SECTION 01040

SECTION 01300 - SUBMITTALS

1.1 GENERAL

A. Submittal Procedures: Coordinate submittal preparation with construction, fabrication, other submittals, and activities that require sequential operations. Transmit in advance of construction operations to avoid delay.
   1. Coordinate submittals for related operations to avoid delay because of the need to review submittals concurrently for coordination. The Owner reserves the right to withhold action on a submittal requiring coordination until related submittals are received.
   2. Processing: Allow 2 weeks for initial review.
      a. No extension of Contract Time will be authorized because of failure to transmit submittals sufficiently in advance of the Work to permit processing.
   3. Submittal Preparation: Place a permanent label on each submittal for identification. Provide a 4- by 5-inch space on the label or beside title block to record review and approval markings and action taken. Include the following information on the label for processing and recording action taken.
      a. Project name.
      b. Date.
      c. Name and address of the Owner.
      d. Name and address of the Contractor.
      e. Name and address of the subcontractor.
      f. Name and address of the supplier.
      g. Name of the manufacturer.
      h. Number and title of appropriate Specification Section.
      i. Drawing number and detail references, as appropriate.

   4. Submittal Transmittal: Package each submittal appropriately. Transmit with a transmittal form. The Owner will not accept submittals from sources other than the Contractor.
   5. Transmittal Form: Use AIA Document G810. On the form, record requests for data and deviations from requirements. Include Contractor's certification that information complies with requirements.

B. Contractor's Construction Schedule: Prepare a horizontal bar-chart-type, contractor's construction schedule. Provide a separate time bar for each activity and a vertical line to identify the first working day of each week. Use the same breakdown of Work indicated in the "Schedule of Values." Indicate estimated completion in 10 percent increments. As Work progresses, mark each bar to indicate actual completion. Refer to Section 01040 for additional instructions.
   1. Submit 3 copies. The Owner will retain two and return the other marked with action taken. Submit within 14 days of the date established for "Commencement of the Work."
   2. Schedule work by development.
   3. Prepare the schedule on stable transparency, or other reproducible media, of width to show data for the entire construction period.
   4. Secure performance commitments from parties involved. Coordinate each element with other activities; include minor elements involved in the Work. Show each activity in proper sequence. Indicate sequences necessary for completion of related Work.
   5. Coordinate with the Schedule of Values, list of subcontracts, Submittal Schedule, payment requests, and other schedules.

6. Indicate completion in advance of Substantial Completion. Indicate Substantial Completion to allow time for the Owner's procedures necessary for certification of Substantial Completion.
7. Phasing: Show how phased completion affects the Work.
8. Indicate critical paths and float periods.
9. Work Stages: Indicate important stages for each portion of the Work.
10. Area Separations: Provide a separate time bar to identify each construction area for each portion of the Work. Indicate where each element must be sequenced with other activities.

C. Shop Drawings: Submit 3 copies. The Owner will retain two and return the other marked with action taken. Submit newly prepared information drawn to scale. Indicate deviations from the Contract Documents. Do not reproduce Contract Documents or copy standard information. Include the following information:
   1. Dimensions.
   2. Identification of products and materials included by sheet and detail number.
   3. Compliance with standards.
   4. Notation of coordination requirements.
   5. Notation of dimensions established by field measurement.
   6. Sheet Size: Except for templates and full-size Drawings, submit one correctable, reproducible print and one blue- or black-line print on sheets at least 8-1/2 by 11 inches but no larger than 36 by 48 inches. The Owner will return the reproducible print.
      a. Do not use Shop Drawings without an appropriate final stamp indicating action taken.

D. Product Data: Collect Product Data into a single submittal for each element of construction. Mark each copy to show applicable choices and options. Where Product Data includes information on several products, mark copies to indicate applicable information.
   1. Include the following information:
      a. Manufacturer's printed recommendations.
      b. Compliance with trade association standards.
      c. Compliance with recognized testing agency standards.
      d. Application of testing agency labels and seals.
      e. Notation of dimensions verified by field measurement.
      f. Notation of coordination requirements.
   2. Submittals: Submit 3 copies. The Owner will retain two and return the other marked with action taken.
      a. Unless noncompliance with Contract Documents is observed, the submittal serves as the final submittal.
   3. Distribution: Furnish copies to installers, subcontractors, suppliers, and others required for performance of construction activities. Show distribution on transmittal forms. Do not proceed with installation until a copy of Product Data is in the Installer's possession.
      a. Do not use unmarked Product Data for construction.

E. Samples: Submit full-size Samples cured and finished as specified and identical with the material proposed. Mount Samples to facilitate review of qualities.
   1. Include the following:
      a. Specification Section number and reference.
      b. Generic description of the Sample.

c. Sample source.
d. Product name or name of the manufacturer.
e. Compliance with recognized standards.
f. Availability and delivery time.

2. Submit Samples for review of size, kind, color, pattern, and texture, for a check of these characteristics, and for a comparison of these characteristics between the final submittal and the actual component as delivered and installed. Where variations are inherent in the material, submit at least 3 units that show limits of the variations.
   a. Refer to other Sections for requirements for Samples that illustrate workmanship, fabrication techniques, details of assembly, connections, operation, and similar characteristics.
   b. Refer to other Sections for Samples to be incorporated in the Work. Samples must be undamaged at time ofuse. On the transmittal, indicate special requests regarding disposition of Sample submittals.
   c. Samples not incorporated into the Work, or designated as the Owner's property, are the Contractor's property and shall be removed from the site.

3. Preliminary Submittals: Submit a full set of choices where Samples are submitted for selection of color, pattern, texture, or similar characteristics from standard choices. The Owner will review and return submittals indicating selection and other action.
4. Submittals: Except for Samples illustrating assembly details, workmanship, fabrication techniques, connections, operation, and similar characteristics, submit 1 set. Maintain set of Samples, at the Project Site, for quality comparison.
   a. Unless noncompliance with Contract Documents is observed, the submittal may serve as the final submittal.
   b. Sample sets may be used to obtain final acceptance of the construction associated with each set.

5. Distribution of Samples: Distribute additional sets to subcontractors, manufacturers, and others as required for performance of the Work. Show distribution on transmittal forms.

F. Owner's Action: Except for submittals for the record or information, where action and return are required, the Owner will review each submittal, mark to indicate action taken, and return. Compliance with specified characteristics is the Contractor's responsibility.
   1. Action Stamp: The Owner will stamp each submittal with an action stamp. The Owner will mark the stamp appropriately to indicate the action taken.

1.2 PRODUCTS (Not Applicable)

1.3 EXECUTION (Not Applicable)

END OF SECTION 01300

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SECTION 01700 - CONTRACT CLOSEOUT

Part 1 –GENERAL

1.1 SUMMARY

A. Closeout requirements for specific construction activities are included in the appropriate Sections in Divisions 2 through 16.

B. Acceptance: The Owner will accept units as being substantially complete upon inspection and certification by the owner's representative. The owner's representative will inspect completed units on a weekly basis. Until the construction is inspected and accepted as being substantially complete and the owner has issued a "Certificate of Substantial Completion" the Contractor will be responsible for damages or loss of the completed work, other than obvious tenant abuse, as determined solely by the Owner.

C. Substantial Completion: Before requesting inspection for certification of Substantial Completion, complete the following:
   1. In the Application for Payment that coincides with, or first follows, the date Substantial Completion is claimed, show 100 percent completion for the Work claimed as substantially complete.
      a. Include supporting documentation for completion and an accounting of changes to the Contract Sum.
   2. Advise the Owner of pending insurance changeover requirements.
   3. Submit specific warranties, workmanship bonds, maintenance agreements, final certifications, and similar documents.
   4. Submit record drawings, maintenance manuals, final project photographs, damage or settlement surveys, property surveys, and similar final record information.
   5. Deliver tools, spare parts, extra stock, and similar items.
   6. Complete startup testing of systems and instruction of operation and maintenance personnel. Remove temporary facilities, mockups, construction tools, and similar elements.
   7. Complete final cleanup requirements, including touchup painting.
   8. Touch up and repair and restore marred, exposed finishes.

D. Final Acceptance: Before requesting inspection for certification of final acceptance and final payment, complete the following:
   1. Final payment request with releases and supporting documentation. Include insurance certificates where required.
   2. Submit a statement, accounting for changes to the Contract Sum.
   3. Submit a copy of the final inspection list stating that each item has been completed or otherwise resolved for acceptance.
   4. Submit consent of surety to final payment.
   5. Submit a final settlement statement.

E. Maintenance Manuals: Organize operation and maintenance data into sets of manageable size. Bind in individual, heavy-duty, 2-inch, 3-ring, binders, with pocket folders for folded sheet information. Mark identification on front and spine of each binder. Include the following information:

1. Emergency instructions.
2. Spare parts list.
3. Copies of warranties.
4. Wiring diagrams.
5. Shop Drawings and Product Data.

1.2 PRODUCTS (Not Applicable)

1.3 EXECUTION

A. Operation and Maintenance Instructions: Arrange for each Installer of equipment that requires maintenance to provide instruction in proper operation and maintenance. Include a detailed review of the following items:
   1. Maintenance manuals.
   2. Spare parts, tools, and materials.
   3. Lubricants and fuels.
   4. Identification systems.
   5. Control sequences.
   6. Hazards.
   7. Warranties and bonds.
   8. Maintenance agreements and similar continuing commitments.

B. As part of instruction for operating equipment, demonstrate the following:
   1. Startup and shutdown.
   2. Emergency operations and safety procedures.
   3. Noise and vibration adjustments.

C. Final Cleaning (***This work shall be completed on a per Building Acceptance basis***): Employ experienced cleaners for final cleaning. Clean each surface or unit provided under this contract, to the condition expected in a normal, commercial building cleaning and maintenance program. Complete the following operations before requesting inspection for certification of Substantial Completion.
   1. Remove labels that are not permanent labels.
   2. Clean transparent materials, including mirrors and glass. Remove glazing compounds. Replace chipped or broken glass.
   3. Clean exposed finishes to a dust-free condition, free of stains, films, and foreign substances. Leave concrete floors broom clean. Vacuum carpeted surfaces.
   4. Wipe surfaces of mechanical and electrical equipment. Remove excess lubrication. Clean plumbing fixtures. Clean light fixtures and lamps.
   5. Make unit completely ready for occupancy. The unit shall be in move-in conditions upon turnover to the Owner.
   6. Removal of Protection: Remove temporary protection and facilities.

D. Compliance: Comply with regulations of authorities having jurisdiction and safety standards for cleaning. Remove waste materials and dispose of lawfully.

END OF SECTION 01700

SECTION 01740 - WARRANTIES

1.1 GENERAL

A. Standard product warranties are preprinted written warranties published by individual manufacturers for particular products and are specifically endorsed by the manufacturer to the Owner.

B. Special warranties are written warranties required by or incorporated in the Contract Documents, either to extend time limits provided by standard warranties or to provide greater rights for the Owner.
   1. Refer to the HUD 5370 General Conditions for terms of the Contractor's period for correction of the Work.

C. Disclaimers and Limitations: Manufacturer's disclaimers and limitations on product warranties do not relieve the Contractor of the warranty on the Work that incorporates the products. Manufacturer's disclaimers and limitations on product warranties do not relieve suppliers, manufacturers, and subcontractors required to countersign special warranties with the Contractor.

D. Related Damages and Losses: When correcting failed or damaged warranted construction, remove and replace construction that has been damaged as a result of such failure or must be removed and replaced to provide access for correction of warranted construction.

E. Reinstatement of Warranty: When Work covered by a warranty has failed and been corrected by replacement or rebuilding, reinstate the warranty by written endorsement. The reinstated warranty shall be equal to the original warranty with an equitable adjustment for depreciation.

F. Replacement Cost: Upon determination that Work covered by a warranty has failed, replace or rebuild the Work to an acceptable condition complying with requirements of the Contract Documents. The Contractor is responsible for the cost of replacing or rebuilding defective Work regardless of whether the Owner has benefited from use of the Work through a portion of its anticipated useful service life.

G. Owner's Recourse: Expressed warranties made to the Owner are in addition to implied warranties and shall not limit the duties, obligations, rights, and remedies otherwise available under the law. Expressed warranty periods shall not be interpreted as limitations on the time in which the Owner can enforce such other duties, obligations, rights, or remedies.
   1. Rejection of Warranties: The Owner reserves the right to reject warranties and to limit selection to products with warranties not in conflict with requirements of the Contract Documents.
   2. Where the Contract Documents require a special warranty, or similar commitment, the Owner reserves the right to refuse to accept the Work, until the Contractor presents evidence that entities required to countersign such commitments are willing to do so.

H. Submit written warranties to the Owner prior to the date certified for Substantial Completion. If the Owner's Certificate of Substantial Completion designates a commencement date for warranties other than the date of Substantial Completion, submit written warranties upon request of the Owner.

1. When a designated portion of the Work is completed and occupied or used by the Owner, by separate agreement with the Contractor during the construction period, submit properly executed warranties to the Owner within 15 days of completion of that designated portion of the Work.

I. When the Contract Documents require the Contractor, or the Contractor and a subcontractor, supplier or manufacturer to execute a special warranty, prepare a written document that contains appropriate terms and identification, ready for execution by the required parties. Submit a draft to the Owner, through the Owner, for approval prior to final execution.
   1. Refer to Divisions 2 through 16 Sections for specific content requirements and particular requirements for submitting special warranties.

J. Bind warranties and bonds in heavy-duty, commercial-quality, durable 3-ring, vinyl-covered loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-by-11-inch paper.
   1. Provide heavy paper dividers with celluloid covered tabs for each separate warranty. Mark the tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product, and the name, address, and telephone number of the Installer.
   2. Identify each binder on the front and spine with the typed or printed title "WARRANTIES," Project title or name, and name of the Contractor.
   3. When warranted construction requires operation and maintenance manuals, provide additional copies of each required warranty, as necessary, for inclusion in each required manual.

1.2 PRODUCTS (Not Applicable)

1.3 EXECUTION

A. Warranties shall commence upon Building Acceptance, as described in Section 01700. The Contractor shall keep a log of when each warranty period begins. This log shall include serial numbers of equipment under warranty, and shall indicate the term of the manufacturer’s warranty.
B. The Contractor shall warranty all workmanship, materials and equipment for a period of no less than 12 months from the date of Building Acceptance. This warranty shall include the repair or replacement of defective workmanship, materials and equipment at no cost to the Owner during this 12 month warranty period, and as required by the HUD 5370 General Conditions of the Contract.

END OF SECTION 01740

SECTION 26510 – LED LIGHTING

PART 1 - GENERAL

1.1 SUMMARY

A. This Section includes the following:
   1. LED Light Fixtures
   2. LED Bulbs
   3. LED Retrofit Kits

1.2 SUBMITTALS

A. Product Data: For each product indicated.

1.2 PROJECT CONDITIONS

A. The Contractor shall conduct their operations in a cooperative manner with the housing authority and shall interfere as little as possible with the normal operation and function of the building. Most of the living quarters will be occupied at the time the work is done. The contractor will be required to move the tenants belongs to complete the work. The inconvenience to the occupants of the building will be kept to a minimum.

B. During construction, the contractor may need to coordinate work with another contractor and the CMHA. There could be several concurrent projects while this building is being modernized.

C. Provide adequate temporary lighting during installation and clean-up.

1.3 DELIVERY, STORAGE AND HANDLING

A. Deliver materials in manufacturer's original, unopened labeled containers.

B. Store, protect, and handle materials in accordance with manufacturer's recommendations to prevent damage, soiling and deterioration.

PART 2 - PRODUCTS

2.1 LED FLAT PANEL, 2’x 2’ or 2’x 4’
A. Replace where fitted in drop ceilings
B. 4000K, cool white, shall be installed in the lobby and community rooms
C. 3500K, soft white, shall be installed in the offices
D. Dimmable panels required in offices
E. The flat panel shall be an Eaton FPanel LED panel series or approved equal.

2.2 FLUSH MOUNT REPLACEMENT FIXTURE

A. Kitchen Light Replacement
   1. The fixture shall be a Progress P350045-009, Signature 3 Light 17 inch Brushed Nickel Flush Mount Ceiling Light, etched, or approved equal.
   2. The bulbs specified in section 2.4 shall be installed in this fixture.

B. 2-4 Bulb Round Fixture Replacement
   1. The fixture shall be a Progress P3925-09ET Signature 2 Light 13 inch Brushed Nickel Close-to-Ceiling Ceiling Light in 13-1/4", Etched, or approved equal.
   2. The bulbs specified in section 2.4 shall be installed in this fixture.

C. 1 Bulb Closet Fixture Replacement
   1. The fixture shall be a Westinghouse 67208 , 1-Light Brushed Nickel Interior Ceiling Flush mount with Pull Chain and White Glass Globe, or approved equal.
   2. The bulbs specified in section 2.4 shall be installed fixture.

2.3 LED RETROFIT KIT

A. Replace in stairwells, hallways, maintenance areas where a fluorescent fixture is mounted
B. Fluorescent fixtures with 4 bulbs will require 2 retrofit kits.
C. The contractor shall reuse the existing light covers/diffusers.
D. 5000k, daylight
E. The retrofit kit shall be an Optilumen RKT Series Retrofit Kit RKT2418M-XX or an approved equal.

2.4 LED BULB/LAMP

A. Replace in stairwell and install in new fixtures.
B. The bulb shall be a Phillips 100-Watt Equivalent A19 Energy Saving LED Light Bulb Daylight (5000K) or approved equal.

PART 3 - EXECUTION

3.1 GENERAL

A. All fixtures, bulbs, and retrofit kits shall be installed based on the manufacturer’s recommendation.
B. Should any conflict occur with the building structure that will not allow proper installation of fixtures, the Owner shall be contacted before proceeding.
C. All light fixtures shall be installed in place of existing fixtures. New brackets or base plates shall be installed on each existing junction box.
D. Any fixtures scratched, bent, cracked or in any way damaged before acceptance by Owner shall be replaced at the Contractor's expense.
E. All bulbs shall be in working order at the time of final acceptance of the work by the Owner and Architect.
F. All lighting fixtures are to be grounded on the interior of the fixture housing, on clean bare metal (free of paint), by use of a pigtail and fastened by a screw used for no other purpose.
G. Repair drop ceilings as needed so fixtures fit correctly

3.2 INSTALLATION – LED FLAT PANEL

A. Lighting systems that are installed within a grid type ceiling suspension system shall follow methods outlined below:
   1. Support recessed panels independently of the ceiling grid system by using two safety wires minimum on diagonally opposite corners of the fixtures. Support recessed downlights by using safety wires or by rigidly attaching the fixtures to the building structure or ceiling grid system. Removable T-bar clips shall not be used to attach fixtures to the ceiling grid system.
   2. A few of the first panels shall be checked as soon as they are suspended, to determine if any sagging or twisting of the ceiling system exists, and if fixtures are firm and hang straight.
   3. The ceiling shall be checked for sagging after panels have been installed. Adjustments to the ceiling suspension system shall be the responsibility of the Contractor.

3.3 INSTALLATION – LED FLUSHMOUNT FIXTURE

A. Furnish new mounting straps, frames, rings, and other accessories required for a complete lighting installation.
B. Flush fixtures that have light leaks between the frame and ceiling or do not fit snuggly shall have a gasket installed by the Contractor between the trim and the ceiling.

END OF SECTION 26510

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