



Standard Form of Agreement between Owner and Consultant

AGREEMENT made as of the **XX** day of **Month** in the year **20XX**

AGREEMENT/ CONTRACT NUMBER: **XXXXXXXXXX**

BETWEEN the Owner:

KING COUNTY HOUSING AUTHORITY

600 Andover Park West

Tukwila, Washington 98188

(a body corporate and politic created under Washington State Law, hereinafter called the 'KCHA'; or assigns of KCHA)

and the Consultant:

CONSULTANT FIRM'S NAME

Address

City, State, Zip

(a corporation organized and existing under the laws of the State of Washington, hereinafter called 'Consultant')

for the following Project:

PROJECT NAME

Address

City, State, Zip

SCOPE OF WORK: Brief Description (example-The Redevelopment of Green River Homes includes all Residential Buildings and Units, the upgrading of the Exterior of the On-Site Management Building, and the Construction of a New On-Site Community Building.) (See Article 3 for full description.)

The Owner's Designated Representative(s):

Name, Project Manager

Name, Construction Coordinator

Name, Project Engineer

The Consultant's Designated Representative(s):

Name, President

Name, Project Manager

Name, Project Manager for Name of Company (Sub-consultant, if any)

ARTICLE 1: TERM OF THE AGREEMENT

§ 1.1 The term of this Agreement shall begin upon contract execution date and shall end as follows, unless terminated earlier or subject to extension through modification(s), pursuant to the provisions of this Agreement.

- a. Begin Date: Month, Day, Year
- b. Ending Date: Month, Day, Year

ARTICLE 2: TIME OF BEGINNING AND COMPLETION

§ 2.1 The Consultant shall begin the work as outlined in Article 3 ‘Scope of Work; (‘the Work’) on the designated date in Article 1. KCHA will acknowledge in writing, when the Work is complete.

§ 2.1.1 Time limits established pursuant to this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by KCHA, in writing, for its convenience or for conditions beyond the Consultant’s control.

ARTICLE 3: SCOPE OF WORK

§ 3.1 The Scope of Work (Exhibit-A) includes, but is not limited to Design Development, Construction Documents, Submittal of Required Documents for Permits, Bidding Support Services, Assistance with Construction Administration on a limited basis as determined by the Owner, and Design Closeout.

§ 3.2 ENTER FULL SOW (see RFQ for this)

§ 3.3 The Design Services under this Agreement includes, but is not limited to Architectural, Mechanical, Electrical, Civil, Hazardous Materials, Selective Demolition, and Landscaping.

§ 3.4 Professional Services related to the ENTER WHAT THEY ARE (example-vacating of the On-site Public Street and all associated documents as may be required by the governing jurisdiction are part of this Agreement.) OTHERWISE DELETE THIS PARAGRAPH

§ 3.5 Other services included in this Agreement are ENTER WHAT THEY ARE (example-the Preparation and Completion of a Short Plat, Conditional Use Permit, and other associated Permits for the Construction of the New On-Site Community Building.) OTHERWISE DELETE THIS PARAGRAPH

ARTICLE 4: PAYMENT/PAYMENT PROCEDURE

§ 4.1 The Consultant agrees to perform all the work set forth in the Scope of Work, Article 3, of this Agreement for a Not to Exceed Amount of:

Dollars and No Cents (\$XXX,XXX.00)

§ 4.2 Consultant’s Proposal (Exhibit-D). The fee is the entire fee and shall not be increased without express written approval by KCHA. The Consultant shall be paid by KCHA for work performed and/or services rendered and for all supervision, labor, supplies, materials, equipment or use thereof, and reimbursable expenses necessary to complete all the work.

The Consultant’s proposed fee may not be fully expended during the term of this Agreement and the Consultant is not entitled to any fee portion not expended.

§ 4.3 Reimbursable Expenses.

§ 4.3.1 In addition to the payments as set forth in this Section, KCHA will reimburse the Consultant's expenses in the following ways:

- .a Actual Cost Plus 10% Markup
 - .1 Miscellaneous approved business expenditures such as printing, courier services, binding, and similar items that are necessary and directly applicable to the work required by this Agreement as described in each Task Order.
 - .2 Sub-consultant's expenses, similar to the expenses and restrictions of the Consultant.
- .b Transportation
 - .1 Transportation vehicle mileage expenses in connection with this contract will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in effect at the time the mileage expense is incurred.

§ 4.3.2 Rental car and other miscellaneous travel such as parking, gas, taxi, shuttle, tolls, ferry fees, meals, airfare, and similar expenses are **not** a reimbursable expense under this Agreement and are **not allowed**.

§ 4.4 Reimbursable Expense Documentation.

§ 4.4.1 KCHA will require the Consultant to submit documentation or copies of the following reimbursable expenses as evidence to support such expenses with their invoices for payment:

- .a Transportation vehicle mileage expenses in connection with the assigned projects.
 - .1 To include user's name, mileage total, reason for trip, and start/stop points
- .b business expenses (e.g., printing, couriers, thumb-drives, binding, etc.).
 - .1 To include number of copies, price / copy, courier slips, etc.
- .c Sub-consultant's invoice.

§ 4.5 The Consultant will be paid monthly by KCHA for completed work and/or services rendered under this Agreement up to the Not-to-Exceed Agreement Amount. Billing shall show a percentage of completion of the associated tasks and detail of the work included in the invoice. Payment of any amounts due under the Agreement shall not relieve the Consultant of the obligation to perform all the work set forth in the Scope of Work, Article 3, in a satisfactory manner. Payment for all Consultant Services for this Project shall be on the basis of the Consultant's actual cost, plus a profit percentage, as approved by KCHA.

§ 4.6 No payment shall be made for work performed prior to the date authorized for work to begin. Invoices shall detail the work, hours, employee's names, numbers, and job classifications for which payment is being requested and shall detail, with receipts attached, the actual expenses for which reimbursement is being requested. All invoices shall detail the task, budget amount per task and total, current invoice amount per task and total, previous invoice amount per task and total, amount invoiced to date per task and total, remaining budget per task and total, and percent expended per task and total percent expended (**Exhibit-E**). Invoices shall also contain the SOV (**Exhibit-F**), and all reimbursable expense documentation (see § 4.4.1).

§ 4.7 Payment will be made to the Consultant within thirty (30) days after receipt and approval by KCHA of the invoice and required documentation. At no time shall the total cumulative payments plus the cumulative amounts allowed, but withheld payments exceed the agreement amount multiplied by the percentage of the work actually accomplished.



Or

- a. Invoices shall be submitted to: einv@kcha.org
- b. If unable to use email, please mail the invoice to:
King County Housing Authority
700 Andover Park West, Suite C
Tukwila, WA 98188
Attn: Capital Construction Admin Department

§ 4.8 The Consultant shall make regular payments to all Sub-Consultants from the amounts paid to the Consultant by KCHA. KCHA will not be responsible to make any payments to Sub-consultants upon the failure of the Consultant to make such payments. Monthly invoices submitted to KCHA shall indicate the amounts paid to all individual Sub-consultants in the prior period based on invoices submitted to the Consultant by the Sub-consultants. Upon completion of the Work the Consultant shall submit a final invoice labeled as such.

§ 4.9 **Additional Services.** The Agreement fee shall include all work associated with the work defined as Design Development, Construction Documents, Bidding Phase, Construction Administration, and Project Close Out. Additional work that may be required for this project, as determined by KCHA, will be negotiated prior to work being accomplished. **Additional work will not proceed without a written and approved Change Order from KCHA that is properly executed by both parties.** Verbal approvals are prohibited. No fees will be paid to consultant for work that proceeds without written authorization from KCHA. Fees and reimbursable expenses for the additional work shall be negotiated.

§ 4.10 **Consultant’s Records.** The Consultant shall keep complete and accurate records in accordance with general accepted accounting practices, including all reimbursable costs and expenses for purposes of audit and proper allocation of overhead expenses to this project. Records shall be available to for a period of six (6) years for review.

ARTICLE 5: ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS

§ 5.1 All official notices under this Agreement shall be delivered to the following addresses (or such other address as either party may designate in writing):

If KCHA: King County Housing Authority
Attn: Name, Title
700 Andover Park West
Tukwila, WA 98188

If to the Consultant: CONSULTANT FIRM NAME
Attn: Contact Name, Title
Address
City, State, Zip

ARTICLE 6: CONSULTANT CONTRACT EEO REPORTING REQUIREMENTS

§ 6.1 The Consultant shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall take affirmative action to ensure that

applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices as provided by KCHA setting forth the provisions of this nondiscrimination clause.

§ 6.2 Upon request the Consultant shall furnish to the Director of Capital Construction (or his/her designee) a report of the affirmative action taken by the Consultant in implementing the requirements of this section, and will permit access to the Consultant's records of employment, employment advertisements, application forms, other pertinent data and compliance with the requirements of this section.

§ 6.3 Upon request by the Director of Capital Construction, the Consultant shall submit EEO Reports in the form specified by KCHA, detailing actual employment data for the Consultant and for any and subcontractor(s) utilized for the Work.

§ 6.4 The Consultant, by executing this Agreement, is affirming that the Consultant complies with all applicable federal, state, and local non-discrimination laws, particularly all provisions of Executive Order 11246 of September 24, 1965 as described in full here: <https://www.kcha.org/documents/EEO.pdf>. Any violation of the mandatory requirements of the provisions of this section shall be a material breach of Agreement for which the Consultant may be subject to damages and sanctions provided for the by the Agreement and by applicable law.

§ 6.5 Minimum Wages. Employees shall not be paid less than the minimum wages as identified in the Technical Salary Determination. <https://www.kcha.org/documents/HUDTechSalary.pdf>

ARTICLE 7: EFFORTS TO USE WOMEN AND MINORITY ENTERPRISES

§ 7.1 General. KCHA encourages the use of Women and Minority Business Enterprises ("WMBEs") as sub-consultants and women and minority employees in all KCHA Agreements, and encourages outreach efforts to include women and minorities in employment, Contracting, and sub-contracting opportunities.

§ 7.1.1 Outreach efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making other useful schedule and requirements modifications that are likely to assist small or WMBE businesses to complete, targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.

§ 7.1.2 The Consultant shall ensure that all employees, particularly supervisors, are aware of, and adhere to their obligation to maintain a working environment free from discriminatory conduct, including but not limited to harassment and intimidation of minorities, women, or WMBE businesses.

§ 7.2 Non-Discrimination. The Consultant shall not create barriers to open and fair opportunities for WMBEs to participate in a KCHA Agreement and to obtain or complete for Agreements and Sub Agreements as sources of supplies, equipment, construction and services.

ARTICLE 8: OTHER LEGAL REQUIREMENTS

§ 8.1 General Requirement. The Consultant, at no expense to KCHA, shall comply with all applicable laws of the United States and the State of Washington and with the rules, regulations and requirements of KCHA, and rules, regulations, orders, and directives of the officers thereof. Without limiting the generality of this paragraph, the Consultant shall specifically comply with the following requirements of this section.

§ 8.2 Licenses and Similar Authorization. The Consultant, at no expense to KCHA, shall secure and maintain in full force and effect, during the term of this Agreement, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

§ 8.3 Use of Recycled Content Paper. The Consultant shall use, whenever practicable, recycled content paper on all documents submitted to KCHA.

§ 8.4 American with Disabilities Act. The Consultant shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Agreement.

§ 8.5 Record Keeping. The Consultant shall maintain, for at least six (6) years after the expiration or termination of this Agreement, relevant records and information necessary to document all Consultant solicitations to sub-consultants and suppliers, all sub-consultant and supplier proposals received, and all sub-consultants and suppliers actually utilized under this Agreement. The Consultant shall keep complete and accurate records in accordance with general accepted accounting practices, including all reimbursable costs and expenses for purposes of audit and proper allocation of overhead expenses to this project. KCHA shall have the right to inspect and copy such records.

ARTICLE 9: INSURANCE PROCEDURES

§ 9.1 Insurance Required. The Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its employees, sub-consultants, agents and representatives, and anyone acting on its behalf. The cost of such insurance shall be borne by the Consultant. (Exhibit-G).

ARTICLE 10: AUDIT

§ 10.1 Upon request, the Consultant shall permit KCHA and any other governmental agency involved in the funding of the Work ("Agency"), to inspect and audit all pertinent books and records of the Consultant, any sub-consultant, or any other person or entity that performed work in connection with or related to the Work, at any and all times deemed necessary by KCHA or Agency, including up to six years after the final payment or release of withheld amounts has been made under this Agreement. Such inspection and audit shall occur in King County, Washington or other such reasonable location as KCHA or Agency selects. The Consultant shall supply KCHA with, or shall permit KCHA and/or Agency to make, a copy of any books and records and any portion thereof. The Consultant shall ensure that such inspection, audit and copying right of KCHA and Agency is a condition of any Sub-Agreement, Agreement or other arrangement under which any other person or entity is permitted to perform work under this Agreement.

ARTICLE 11: AGREEMENT RELATIONSHIP

§ 11.1 The relationship of the Consultant to KCHA, by reason of this Agreement, shall be that of an independent Contractor. This Agreement does not authorize the Consultant to act as the agent or legal representative of KCHA for any purpose whatsoever. The Consultant is not granted any express or implied

right or authority to assume or create any obligation or responsibility on behalf of or in the name of KCHA or to bind KCHA in any manner or thing whatsoever.

ARTICLE 12: ASSIGNMENT AND SUBCONTRACTING

§ 12.1 The Consultant shall not assign or subcontract any of its obligations under this Agreement without KCHA's written consent, which may be granted or withheld in KCHA's sole discretion. Any subcontract made by the Consultant shall incorporate by reference all the terms of this Agreement. The Consultant shall ensure that all sub-consultants comply with the obligations and requirements of the subcontract. KCHA's consent to any assignment or subcontract shall not release the Consultant from liability under this Agreement, or from any obligation to be performed under this Agreement, whether occurring before or after such consent, assignment, or subcontract.

§ 12.2 KCHA may, without consent of the Consultant, assign this Agreement to an institutional lender providing financing for the project, to a Limited Liability Corporation or Limited Partnership for purposes of acquiring ownership of the property, or to other designees. In such event, the assignee(s) shall assume KCHA's rights and obligations under this Agreement. The Consultant shall execute all consents reasonably required to facilitate such assignment.

ARTICLE 13: INDEMNIFICATION AND HOLD HARMLESS

§ 13.1 The Consultant hereby agrees to indemnify and hold harmless KCHA, its successors and assigns, directors, officials, officers, employees, Agents, partners and volunteers (all foregoing singly and collectively "Indemnitees"), from and against any and all claims and losses, harm, costs, liabilities, damages and expenses including, but not limited to, reasonable attorneys' fees arising or resulting from such claims, the performance of the services, or the acts or omissions of the Consultant, its successors and assigns, employees, and agents of each of the foregoing, or anyone acting on the Consultant's behalf in connection in connection with this Contract or its performance; PROVIDED, however, that the Consultant shall not be required to so indemnify any such Indemnitees against liability for damages caused by or resulting from the sole negligence of Indemnitees; PROVIDED FURTHER that if such damages are caused by or result from the concurrent negligence of the Indemnitees and the Consultant or anyone acting on the Consultant's behalf, then the Consultant's indemnity hereunder shall be limited to the extent of the negligence of the Consultant, its successors and assigns, et al.

§ 13.1.1 PROVIDED, however, that the consultant will not be required to indemnify, defend, or save harmless the indemnitee as provided in the preceding paragraphs of this section if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the indemnitee. Where such claims, suits, or actions result from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees and (b) the Consultant or the Consultant's agent or employee, the indemnity provisions provided in the preceding paragraphs of this section shall be valid and enforceable only to the extent of the Consultant's negligence or the negligence of its agents and employees.

§ 13.1.2 The foregoing indemnity is specifically and expressly intended to constitute waiver of the Consultant's immunity under Washington's Industrial Act, RCW Title 51, and that this waiver has been specifically negotiated and agreed upon by the parties.

§ 13.2 The Consultant hereby agrees to require all its sub-consultants or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this Contract to execute an indemnity clause identical to the preceding clause, specifically naming King County Housing Authority as Indemnitee, and failure to do so shall constitute a material breach of this Contract by the Consultant.

ARTICLE 14: INVOLVEMENT OF FORMER KCHA EMPLOYEES

§ 14.1 The Consultant shall ensure that no Work or matter related to the Work is performed by any person (employee, sub-consultant, or otherwise) who was a KCHA officer or employee within the past twelve (12) months.

ARTICLE 15: NO CONFLICT OF INTEREST

§ 15.1 The Consultant confirms that the Consultant does not have a business interest or a close family relationship with any KCHA officer or employee who was, is, or will be involved in the consultant selection, negotiation, drafting, signing, administration, or evaluating the Consultant's performance. As used in this section, the term "Consultant" shall include any employee of the Consultant who was, is, or will be involved in the negotiation, drafting, signing, administration, or performance of the Agreement. As used in this section, the term "close family relations" refers to the following: spouse or domestic partner; any dependent parent, parent-in-law, child, son-in-law, or daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a KCHA officer or employee.

ARTICLE 16: ERROR AND OMISSIONS / CORRECTIONS

§ 16.1 The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the consultant under this Agreement. The Consultant, without additional compensation, shall correct or revise any errors or omissions in the designs, drawings, specifications, and/or other Consultant services immediately upon notification by KCHA. The obligation provided for in this section with respect to any acts or omissions during the term of this Agreement shall survive any termination or expiration of this Agreement.

ARTICLE 17: INTELLECTUAL PROPERTY RIGHTS

§ 17.1 The Consultant hereby assigns to KCHA all rights in any invention, improvement, or discovery, together with all related information, including but not limited to, designs, specifications, data, patent rights and findings developed in connection with the performance of the Agreement or any subcontract hereunder. Notwithstanding the above, the Consultant does not convey to KCHA, nor does KCHA obtain, any right to any document or material utilized by the Consultant that was created or produced separate from this Agreement or was preexisting material (not already owned by KCHA), provided that the Consultant has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the Consultant grants KCHA an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

§ 17.2 All materials and documents prepared by the Consultant in connection with the Work are instruments of service and the Consultant shall retain the copyright (including the right of reuse) whether or not the Work is completed. The Consultant grants to KCHA a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the Consultant for KCHA under this Agreement. If requested by KCHA, a copy of all drawing, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs and other storage facilities), software programs or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials which are developed solely for, and paid for by, KCHA in connection with the performance of the Work, shall be promptly delivered to KCHA.

§ 17.3 KCHA may make and retain copies of such documents for its information and reference in connection with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by KCHA, or others, on extensions of the project, or on any other project.

ARTICLE 18: CONFIDENTIALITY

§ 18.1 The parties agree that they will not permit the duplication or disclosure of any information designated in advance by the other party as “Confidential and Propriety” to any person (other than its own employee, agent, or representative who must have such information for the performance of that party’s obligations hereunder) unless such duplication, use or disclosure is specifically authorized in writing by the other party or is required by law. “Confidential and Proprietary” information does not include ideas, concepts, know-how or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Agreement. Likewise, “Confidential and Proprietary” information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

ARTICLE 19: DISPUTES

§ 19.1 Any dispute or misunderstanding that may arise under this Agreement concerning the Consultant’s performance shall first be resolved through amicable negotiations, if possible, between the Consultant’s Project Manager and the KCHA’s Project Manager, or if necessary, shall be referred to the Director of Capital Construction, and the Consultant’s senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to alternate dispute resolution processes.

ARTICLE 20: TERMINATION

§ 20.1 **For Cause.** KCHA may terminate this Agreement if the Consultant is in material breach of any of the terms of this Agreement, and such breach has not been corrected to KCHA’s reasonable satisfaction in a timely manner.

§ 20.2 **For Reasons Beyond Control of Parties.** Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party’s reasonable control such as but not limited to an act of nature; war or warlike operation; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulations or control. The Consultant may terminate or renegotiate this Agreement if the project or Architects’ services are suspended for more than 90 consecutive days.

§ 20.3 **For KCHA’s Convenience.** KCHA may terminate this Agreement at any time, without cause and for any reason including KCHA’s convenience, upon written notice to the Consultant.

§ 20.4 **Notice.** Notice of termination pursuant to this section shall be given by the party terminating this Agreement to the other not less than five (5) business days prior to the effective date of termination.

§ 20.5 **Actions Upon Termination.** In the event of termination not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to termination; together with any reimbursable expenses then due, but in no event shall such compensation exceed the maximum compensation to be paid under the Agreement. The Consultant agrees that this payment shall fully and adequately compensate the Consultant and all sub-consultants for all profits, costs, expenses, losses,

liabilities, damages, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Agreement.

§ 20.5.1 Upon termination for any reason, the Consultant shall provide KCHA with the most current design documents, Agreement documents, writings and other product it has completed to the date of termination, along with copies of all project-related correspondence and similar items. KCHA shall have the same rights to use these materials as if termination had not occurred; provided, however, that KCHA shall indemnify and hold the Consultant harmless from any claims, losses or damages to the extent caused by modifications made by KCHA to the Consultant's work product.

ARTICLE 21: MISCELLANEOUS PROVISIONS

§ 21.1 Amendments. No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.

§ 21.2 Binding Agreement. This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors, and assigns.

§ 21.3 Applicable Law / Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court of King County.

§ 21.4 Remedies Cumulative. Rights under this Agreement are cumulative and nonexclusive of any other remedy at law or in equity.

§ 21.5 Severability. If any term or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

§ 21.6 Waiver. No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by KCHA of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by KCHA of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by KCHA, in writing.

§ 21.8 Entire Agreement. This document, along with any exhibits and attachments, constitutes the entire Agreement between the parties with respect to the Work. No verbal Agreement or conversation between any officer, agent, associate or employee of KCHA and any officer, agency, employee or associate of the Consultant prior to the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement.

§ 21.9 Negotiated Agreement. The parties acknowledge that this is a negotiated Agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.



§ 21.10 Sub-consultant Agreement. The Consultant shall provide copies of all Sub-consultant Agreements to KCHA.

§ 21.11 General Conditions for Non-Construction Contracts. The Consultant is required to comply with the conditions as outlined in HUD form 5370-C (Exhibit-H).

§ 22 Enumeration of Contract Documents.

§ 22.1 This Agreement is comprised of the following documents whether attached to this Contract document or inferred by URL link:

- .1 King County Housing Authority Consultant Contract
- .2 **Exhibit-A** RFQ for Project Name*

Title	Issuance Date	No. of Pages
RFQ Table of Contents	_____	_____
- .3 **Exhibit-B** Consultant’s Submittal*

Title	Issuance Date	No. of Pages
RFQ Table of Contents	_____	_____
- .4 **Exhibit-C** Fee Schedule (Hourly Rates)
- .5 **Exhibit-D** Consultant’s Cost Proposal
- .6 **Exhibit-E** Invoice (Sample)
- .7 **Exhibit-F** SOV (Sample)
- .8 **Exhibit-G** KCHA Insurance Requirements
- .9 **Exhibit-H** HUD 5370-C

*The entirety of the RFQ and Submittal are part of the Contract Documents and are referenced here by the inclusion of their respective Table of Contents.

FOR INFORMATION ONLY



IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Agreement by having their representatives affix their signatures below.

This Agreement is entered into as of the day and year first written above.

KING COUNTY HOUSING AUTHORITY

CONSULTANT'S NAME

SIGNATURE OF AUTHORIZED OFFICIAL

SIGNATURE

NAME OF AUTHORIZED OFFICIAL (Please Print)

NAME OF AUTHORIZED OFFICIAL (Please Print)

TITLE OF AUTHORIZED OFFICIAL (Please Print)

TITLE OF AUTHORIZED OFFICIAL (Please Print)

DATE

DATE

FOR INFORMATION ONLY

General Conditions for Non-Construction Contracts

Section I — (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2027)

Public Reporting Burden for this collection of information is estimated to average one 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. HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number. This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 75. The form is required for non-construction contracts awarded by Public Housing Agencies (PHAs). The form is used by PHAs in solicitations to provide necessary contract clauses and allows PHAs to enforce their contracts. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. Do not send this completed form to either of these addressees. The information collected will not be held confidential.

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$250,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$250,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$250,000 — use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$250,000

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section 111, Labor Standards Provisions, including any claims for damages for the alleged breach thereof of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(v) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub[contractor/seller] or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Brail or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, 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 75 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 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, 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 75. 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 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

23. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered

materials practicable consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract

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