

**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN  
APARTMENTS**

**EL DORADO GARDEN APARTMENTS  
4675 JACKSON STREET  
RIVERSIDE, CA 92503  
APN: 191-110-003**

**Riverside Community Housing Corp. (RCHC)  
5555 Arlington Avenue  
Riverside, CA 9250**

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**IFB INFORMATION AT A GLANCE**

RCHC CONTACT PERSON:	Robert Lane, Contracting Coordinator <a href="mailto:rlane@rivco.org">rlane@rivco.org</a> 951-343-5439 (office) 951-688-6873 (facsimile)
HOW TO OBTAIN THE IFB DOCUMENTS:	<ol style="list-style-type: none"><li>1. Access <a href="http://www.harivco.org/">http://www.harivco.org/</a></li><li>2. Select "Vendors/Contractors"</li><li>3. Scroll down and download <b>IFB NO. 2017-003 HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS</b></li><li>4. Download and save the IFB/Plans to your computer.</li></ol>
IFB RELEASE DATE:	<b>Wednesday October 25, 2017</b>
PRE-BID CONFERENCE: (JOB WALK)  <b>NOTE: JOB WALK ATTENDANCE IS NOT MANDATORY BUT HIGHLY ENCOURAGED.</b> Prospective bidders should attend the pre-bid conference (job walk). The purpose is to consider prospective bidders questions and concerns on the proposed project(s).	<b>Wednesday November 08, 2017 at 10:00 AM</b>  El Dorado Garden Apartments 4675 Jackson Street Riverside, CA 92503 APN: 191-110-003
DEADLINE FOR SUBMITTING QUESTIONS / REQUEST FOR INTERPRETATIONS: (RFIs)	<b>Wednesday November 22, 2017 at 5:00 PM</b>
BID SUBMITTAL DEADLINE – BID OPENING:	<b>Wednesday November 29, 2017 at 2:00 PM</b> 5555 Arlington Avenue Riverside, CA 92504 (Bids shall be delivered to the Riverside Community Housing Corp. (RCHC), on the 1st Floor of RCHC Administrative Building located at 5555 Arlington Avenue, Riverside, CA 92504; Bids shall be promptly opened in public at said address. Attention: Robert Lane)
NOTE: RCHC reserves the right to deviate from this timeline and/or modify the Scope of Work at any time!	<b>Notices of any such decisions or modifications will be located at: <a href="http://www.harivco.org">www.harivco.org</a></b>

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**1.0 RCHC'S RESERVATION OF RIGHTS:**

- 1.1 Right to Reject, Waive, or Terminate the IFB.** RCHC reserves the right to reject any or all bids, to waive any informality in the IFB process, or to terminate the IFB process at any time, in its sole and absolute discretion, if deemed by RCHC to be in its best interests.
- 1.2 Right to Not Award.** RCHC reserves the right not to award a contract pursuant to this IFB.
- 1.3 Right to Terminate.** RCHC reserves the right to terminate a contract awarded pursuant to this IFB, at any time for its convenience upon 5 calendar days written notice to the successful bidder(s).
- 1.4 Right to Determine Time and Location.** RCHC reserves the right to determine the days, hours and locations that the successful bidder(s) shall provide the services called for in this IFB.
- 1.5 Right to Determine Financial Responsibility and Viability.** RCHC reserves the right to require of bidder information regarding financial responsibility and viability or such other information as RCHC determines is necessary to ascertain whether a bid is in fact the lowest responsive and responsible bid submitted.
- 1.6 Right to Retain Bids.** RCHC reserves the right to retain all written bids submitted to RCHC in response to this IFB, and not permit withdrawal of same for a period of 60 calendar days subsequent to the deadline for receiving said bids. RCHC may permit the withdrawal of bids when requested in writing by the bidder and such request is approved in writing by the RCHC Contracting Officer (CO) in his/her sole and absolute discretion.
- 1.7 Right to Reject Any Bid.** RCHC reserves the right to reject and not consider any bid that does not meet the requirements of this IFB, including but not necessarily limited to incomplete bids and/or bids offering alternate or non-requested services.
- 1.8 No Obligation to Compensate.** RCHC shall have no obligation to compensate any bidder for any costs incurred in responding to this IFB.
- 1.9 Right to Amend Prior to Award.** RCHC reserves the right to, prior to award, revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the IFB documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on the Housing Authority of the County of Riverside's website which is affiliated with RCHC at [www.harivco.org](http://www.harivco.org) and/or [www.missionreproplanroom.com](http://www.missionreproplanroom.com) Internet System (hereinafter, the "noted Internet System" or the "System"). Such changes that are issued before the bid submission deadline shall be binding upon all prospective bidders. RCHC reserves the right to amend the contract any time prior to contract execution.
- 1.10 Right to Prohibit.** RCHC shall reserve the right to at any time during the IFB or contract process to prohibit any further participation by a bidder or reject any bid submitted that does not conform to any of the requirements detailed herein. By accessing [www.harivco.org](http://www.harivco.org) and/or [www.missionreproplanroom.com](http://www.missionreproplanroom.com) Internet Systems

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(hereinafter, the “noted Internet System” or the “System”) and by downloading this document, each prospective bidder is thereby agreeing to abide by all terms and conditions listed within this document and within the noted Internet System, and further agrees that he/she will inform the CO in writing within 5 calendar days of the discovery of any item listed herein or of any item that is issued thereafter by RCHC that he/she feels needs to be addressed. Failure to abide by this time frame shall relieve RCHC, but not the prospective bidder, of any responsibility pertaining to such issue.

- 1.11 Right to Issue New Bids.** In the event RCHC rejects all bids submitted, RCHC reserves the right to re-advertise this IFB for new bids, to modify this IFB and re-advertise for new bids or to proceed to have the work completed otherwise.
- 1.12 Right to Cancel Award.** RCHC reserves the right to, without any liability; cancel the award of any bid(s) at any time before the execution of the contract documents by all parties.
- 1.13 Right to Revise Quantities.** RCHC reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to RCHC under the following conditions:
- 1.13.1** Funding is not available;
- 1.13.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
- 1.13.3** RCHC’s requirements in good faith change after the award of the contract.
- 1.13.4 Right to Require Additional Information.** RCHC reserves the right to require additional information from all prospective bidders to determine level of responsibility. Such information shall be submitted in the form and time frame required by RCHC.
- 1.14 Right to Require Accurate Timesheets.** RCHC reserves the right to require the successful bidder to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this IFB and any resulting contract.
- 1.15 Right to Contact.** RCHC reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the bidder regardless of their inclusion in the reference section of the bid submittal.
- 1.16 Right to Seek Restitution.** In the event any contract resulting from this IFB is prematurely terminated due to nonperformance and/or withdrawal by the successful bidder, RCHC reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the successful bidder to cover costs for interim services and/or cover the difference of a higher cost (difference between the terminated successful bidder’s rate and new company’s rate) beginning the date of successful bidder’s termination through the contract expiration date.
- 1.17 Right to Amend Prior to Contract Execution.** RCHC reserves the right to amend the contract any time prior to contract execution.

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**2.0 SCOPE OF WORK (SOW)/TECHNICAL SPECIFICATIONS (T/S):** RCHC is seeking bids from qualified, licensed and bonded entities to provide construction services at the public housing sites listed herein:

**2.1 Construction Planning:** All residential units will be occupied during the entire demolition and construction process. Construction planning and scheduling **MUST** take into account that each resident requires 48 hours' notice prior to unit entry. RCHC requires the successful bidder to have a complete construction plan schedule prior to starting work and to have that plan approved by the project manager or his designee, five (5) calendar days prior to the projected start date.

**2.2 GENERAL SPECIFICATIONS OF WORK:**

**2.2.1** The work under this IFB shall be performed at the El Dorado Garden Apartments located in the City of Riverside, State of California and shall include furnishing all labor, material, equipment, tools, supplies, and services and incidentals, and performing all work necessary for the installation and construction of sixty-two (62) HVAC units and associated improvements in strict conformance with all of the Contract documents.

**2.2.2** Contractor will confer with RCHC's designee before purchasing equipment to determine if utility rebates or incentives are available for the HVAC retrofit. In the event the Contractor does receive any rebates or incentives for the purchase of the equipment or for the retrofit, any and all rebates or incentives will be passed on to RCHC. In no case shall the Contractor receive any monetary gain from this work, other than what is contractually agreed to with the RCHC.

**2.2.3** The following units will be excluded from this project and will not receive new HVAC units: 7, 36, 37, 45, 52, and 53.

**2.2.4** Remove sixty-two (62) existing HVAC units from roof, roof curbs, supports, and associated hardware.

**2.2.5** Remove all existing HVAC ducts and install appropriately sized insulated HVAC ducts in its place. The insulation for the new ducts must have an R8 rating or better.

**2.2.6** Install **sixty-two (62) new – 2 ½ ton roof mounted dual package – HVAC units, 14 SEER (“Energy Star” rated using R-410A refrigerant; gas/electric; 220 volt, etc.)** and a corresponding roof curb. HVAC unit weight shall not exceed 400 lbs. New HVAC units must be manufactured by York International or an equivalent manufacturer.

**2.2.7** Install appropriately rated circuit breakers in electrical sub-panels that feed the new HVAC units.

**2.2.8** Remove all existing room HVAC air registers and replace with new appropriate sized adjustable curved type registers.

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- 2.2.9** Remove existing return air register/ filter combinations and install new Install return air register/ filter combinations.
- 2.2.10** Furnish and install new fused disconnects at HVAC units. Contractor shall not re-use old conduit, components or wiring in any new HVAC installation.
- 2.2.11** Furnish and install copper or PVC condensate lines, which are to be run per code to roof edges and discharge over the edges in such a manner so that water will not hit the buildings (combine two into one where possible). This may include new sleeper blocks where needed, which the Contractor will also furnish and install.
- 2.2.12** Furnish and install new rooftop gas valves and rooftop gas lines for HVAC units.
- 2.2.13** Remove existing thermostats and install new programmable thermostats in the same location in each unit. Provide thermostat instructions for residents in both English and Spanish.
- 2.2.14** An independent inspection by a certified Home Energy Rating System (HERS) rater must provide a (California Home Energy Efficiency Rating Services) CHEERS Energy star rating report, a Title 24 CF-1R, and/or an affidavit from an energy consultant stating that it meets the requirements. The certified, independent and third party HERS rater must not be affiliated with the contractor or subcontractor performing the removal and installation of the HVAC unit. The results and documentation of testing performed by the HERS rater shall be delivered to RCHC prior to project completion. NOTE: The certified HERS rater must be certified by a Residential Energy Services Network (RESNET) Accredited Rating Provider.
- 2.2.15** Contractor will be responsible for all construction/building permits required to complete the project.
- 2.2.16** Successful bidder to ensure proper dumping of all waste and components from the site in an approved, legal landfill. Successful bidder shall provide a cleared site free of all debris, contractor equipment, etc. off-site daily. RCHC refuse containers may not be used for disposal of any waste.
- 2.3** RCHC will give access to contractor for each unit based on contractor's proposed work schedule. Forty-eight (48) hours' notice is required before entering each unit.
- 2.4** **Field Verification:** Successful bidder is responsible to field verify existing conditions and promptly notify RCHC if discrepancies in and omissions from the plans, specifications or other contract documents are found in the field, including unforeseen conditions that may affect the successful completion of the project and/or work. Contractors will have access to several units to verify square footage and attic conditions at pre-bid conference (job-walk).
- 2.5** **Explanations and Interpretations to Prospective Bidders:** Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least **ten (10) calendar days** before the scheduled time for bid

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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. 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.

- 2.6 Interpretation of the Documents:** Discrepancies in and omissions from the plans, specifications or other contract documents, or questions as to their meaning shall, at once, be brought to the attention of RCHC. Any interpretation of the documents will be made only by amendment duly issued and a copy of such amendment will be mailed or delivered to each person or firm receiving a set of such documents. RCHC will not be responsible for any other explanations or interpretations. Should anything in the scope of the work or any of the sections of the specifications be of such nature as to be apt to cause disputes between the various trades involved, such information shall be promptly called to the attention of RCHC.
- 2.7 Amendments to the IFB:** If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. Bidders shall acknowledge receipt of any amendment to this solicitation by signing and returning the amendment, by identifying the amendment number and date on the bid form, or by letter, telegram, or facsimile, if those methods are authorized in the solicitation. RCHC 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 RCHC's requirements. Amendments will be on file in the offices of RCHC at least 7 calendar days before bid opening.
- 2.8 Caution to Bidders:** Prospective bidders are cautioned not to merely examine the plans and specifications in making their bid, since requirements are imposed upon the bidder by various other portions of this IFB and the Contract Documents.

**3.0 BID FORMAT:**

- 3.1 Two-step Bid Submittal Process:** All bidders will initially submit the documentation/information detailed within the following listed Step #1. Then, the Agency will notify which bidders are to submit, within 5 days after being notified to do so, the information detailed within the following detailed Step #2 (the bidder(s) that are directed to submit information for Step #2 shall generally be apparent low bidders that RCHC intends to complete this award to).

**3.1.1 Tabbed Bid Submittal.** As may be further described herein, the Agency intends to retain a Contractor pursuant to a "Low Bid" basis, also taking into consideration responsiveness and responsibility. Therefore, so that the Agency can properly evaluate the offers received, all bids submitted in response to this IFB must be formatted in accordance with the sequence noted within the table below. Each category must be separated by numbered index dividers (which number extends so that each tab can be located without opening the bid) and

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labeled with the corresponding tab reference also noted below. None of the proposed services may conflict with any requirement RCHC has published herein or has issued by addendum.

Tab No.	Description
<b>1</b>	<b>Form of Bid:</b> This Form is attached to this IFB document as Attachment A. Input the fee/bid amount, complete and execute where provided thereon and submitted under this tab as a part of the bid submittal.
<b>2</b>	<b>Form HUD-5369-A (11/92), Representations, Certifications and Other Statement of Bidders:</b> This Form is attached to this IFB document as Attachment B. This two (2) page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.
<b>3</b>	<b>Form of Bid Bond:</b> This Form is attached to this IFB document as Attachment C. Certificate as to Corporate Principal – this portion must be completed by the Secretary of the Corporation and the corporate seal affixed. Complete form and notarize. This 2-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.
<b>4</b>	<b>Section 3 Business Preference Documentation:</b> For any bidder claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Certification Form attached hereto as Attachment D and any documentation required by that form. <b>Note: If you qualify as a Section 3 Business Preference, your bid will receive a preference over other bids as specified in Attachment D.</b>
	<b>Bid Submittal Binding Method:</b> It is preferable and recommended that the bidder bind the bid submittal in such a manner that RCHC can, if needed, remove the binding (i.e. “comb-type;” etc.) or remove the pages from the cover (i.e. 3-ring binder; etc.) to make copies then conveniently return the bid submittal to its original condition.

**Step #2:** Documentation/information to be submitted, within 5 days, only by the apparent low bidder when directed to do so by RCHC.

Tab No.	Description
<b>1</b>	<b>Form of Non-Collusive Affidavit:</b> This Form is attached to this IFB document as Attachment E. Must check box indicating whether bidder is an individual, a corporation or partnership. Complete form and notarize. This 1-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.
<b>2</b>	<b>Contractor Designation Form:</b> This Form is attached to this IFB document as Attachment F. This 2-page Form must be fully completed executed and submitted under this tab as a part of the



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	bid submittal. NOTE: Bidders must also provide RCHC with the name, contact information to include address, phone number, email address, core area of business, and years of expertise for each subcontractor and the minority status of each. This requested information is detailed in the Profile of Firm Form. This Form <b>MUST</b> be completed for each general and subcontractor and included in this Tab. Bidder remains responsible to RCHC for any and all services and goods provided pursuant to this IFB and any resulting contract. If subcontractors will not be utilized, please check the appropriate box.
<b>3</b>	<b>Managerial Capacity:</b> The bidder entity must submit under this tab a concise description of its capacity to deliver the proposed services, including brief professional resumes for the persons identified within areas (5) and (6) of the <i>Contractor Designation Form (Attachment F)</i> . Such information shall include the bidder's qualifications to provide the services; a brief description of the background and current organization of the firm.
<b>4</b>	<b>Equal Employment Opportunity Certification (Form HUD-92010):</b> This Form is attached to this IFB document as Attachment G. The 2-page Form must be signed fully, completed and submitted under this tab as a part of the bid submittal.
<b>5</b>	<b>Other Information (Optional Item):</b> The bidder may include hereunder any other general information that the bidder believes is appropriate to assist RCHC in its evaluation.
	<b>Insurance Certificates.</b> The apparent successful bidder will also direct its insurance broker or carrier to deliver directly to the Agency (by email is preferred) the insurance certificates detailed within the following Sections 6.2.1 through 6.2.5 herein. NOTE: The apparent successful bidder will NOT deliver these certificates—the insurance broker or carrier will do so.
	If no information is to be placed under any of the above noted tabs (especially the "Optional" tabs), please place there a statement such as "NO INFORMATION IS BEING PLACED UNDER THIS TAB" or "THIS TAB LEFT INTENTIONALLY BLANK." DO NOT eliminate any of the tabs.

**3.2 Bidder's Security:** Bids in excess of twenty-five thousand dollars (\$25,000) shall be accompanied by a bid guarantee of not less than ten percent (10%) of the amount of the bid, including the aggregate of all separate bid items and schedules covered by the bid, which may be: bid bond, money order, certified check or 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. ***The Form of Bid Bond (Attachment C) must be fully completed, executed and notarized where provided thereon and submitted under tab 3 (above) as a part of the bid submittal.*** Said check or bond shall be made payable to RCHC and shall be given as a guarantee that the Bidder, ***if awarded the Work, will enter into an Agreement with RCHC and will furnish the necessary insurance certificates, Payment Bond, and Performance Bond.*** Each of said bonds and insurance certificates shall be in the amounts of stated in the Standard Specifications or Special Provisions. In case of refusal or failure of the successful Bidder to enter into said Agreement, the check or Bid Bond, as the case may be, shall

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be forfeited to RCHC. If the Bidder elects to furnish a Bid Bond as its security, the Bidder shall use the Bid Bond from bound herein, or one conforming substantially to it in form.

- 3.3 Davis-Bacon Act Wage Determination:** For all construction contracts awarded by in excess of \$2,000, when required by Federal Grant Program legislation, Contractor hereby agrees to comply with the Davis-Bacon Act (40 U.S.C, 276a to 276a-7) as supplemented in. Department of Labor Regulations (29 CFR Part 5). Therefore, by submitting a bid, each bidder is thereby agreeing to and verifying that he/she will not pay his/her employees less than the wage rate listed in the following table. Therefore, it shall be mandatory upon the contractor to whom the contract is awarded, and upon each subcontractor under him, to pay all laborers and workmen employed in the execution of the contract not less than the applicable wage rates for each craft or type of laborer or workman so employed.

General Decision Number	WD No.	Mod. Number	Revision Date
CA170028	CA28	18	09/08/2017

- 3.4 Wage Decision Effective Date (“Lock-In” Date):** General wage decisions shall be locked-in on the date bids are opened (bid opening date) provided that the contract is awarded within 90 days after bid opening. However, if the contract is awarded more than 90 days after the bid-opening, the contract award date “locks-in” the wage decision. For contracts, purchase orders or other agreements for which there is no bid opening or award date, the construction start date is the lock-in date (HUD Handbook 1344.1, REV 2).
- 3.5 Preemption of State Prevailing Wage Requirements:** A prevailing wage rate (including basic hourly rate and any fringe benefits) determined under State law to be prevailing with respect to an employee in any trade or position employed under the contract shall be inapplicable to a contract or RCHC performed work item for the development, maintenance, and modernization of a project (24 CFR Part 965.101).
- 3.6 Public Works Registration Program:** SB 854 was signed into law on June 20, 2014, and became effective immediately, made several significant changes to laws pertaining to the administration and enforcement of prevailing wage requirements by the Department of Industrial Relations (DIR). The fees collected through this new program will be used to fund all of DIR’s public works activities, including compliance monitoring and enforcement, the determination of prevailing wage rates, public works coverage determinations, and hearing enforcement appeals. Contractors will be subject to a registration and annual renewal fee that has been set initially at \$300. The fee is non-refundable and applies to all contractors and subcontractors who intend to bid or perform work on public works projects (as defined under the Labor Code). Contractors will apply and pay the fee online and must meet minimum qualifications to be registered as eligible to bid and work on public works projects. **Under the new program, contractors and subcontractors will be required to register before bidding and entering into public works contracts on state and local public works projects.** To implement the program, the DIR has established an online registration system ([www.dir.ca.gov/Public-Works/PublicWorks.html](http://www.dir.ca.gov/Public-Works/PublicWorks.html)) which went live on **July 1, 2014**. Only contractors who have registered through the program may bid on public

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works projects beginning **March 1, 2015** and may enter into public works contracts beginning **April 1, 2015**.

- 3.7 Bid Submission:** All bids must be submitted and time-stamped received in the designated RCHC office by no later than the submittal deadline stated herein (or within any ensuing amendment). A total of one (1) original signature copy (marked "ORIGINAL" and "SEALED BID") of the bid submittal shall be placed unfolded in a sealed package and addressed to:

**Riverside Community Housing Corp. (RCHC)  
Attention: Robert Lane, Contracting Coordinator  
5555 Arlington Avenue  
Riverside, CA 92504**

The package exterior must clearly include the following, "**IFB No. 2017-003 HVAC Replacement Project at El Dorado Garden Apartments**" and must have the bidder's name and return address. Bids received after the published deadline will not be accepted. Email delivery shall not be a substitute for or waive physical delivery of the bid by the deadline.

- 3.8 Bid Acceptance Period:** The acceptance period is the number of calendar days available to RCHC for awarding a contract from the date specified in this solicitation for receipt of bids. RCHC requires a minimum acceptance period of **ninety 90 calendar days**. A bid allowing less than RCHC's minimum acceptance period will be rejected.
- 3.9 Submission Conditions:** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Bidders are not allowed to change any requirements or forms contained herein, either by making or entering onto these documents or the documents submitted any revisions or additions; and if any such additional marks, notations or requirements are entered on any of the documents that are submitted to RCHC by the bidder, such may invalidate that bid. If, after accepting such a bid, RCHC decides that any such entry has not changed the intent of the bid that RCHC intended to receive, RCHC may accept the bid and the bid shall be considered by RCHC as if those additional marks, notations or requirements were not entered on such. By accessing the noted Internet Site, registering and downloading these documents, each prospective bidder that does so is thereby agreeing to confirm all notices that RCHC delivers to him/her as instructed, and by submitting a bid, the bidder is thereby agreeing to abide by all terms and conditions published herein and by amendment pertaining to this IFB.
- 3.10 Submission Responsibilities:** It shall be the responsibility of each bidder to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by RCHC, including the IFB document, the documents listed in the attachments section, and any amendments and required attachments submitted by the bidder. By virtue of completing, signing and submitting the completed documents, the bidder is stating his/her agreement to comply with the all conditions and requirements set forth within those documents. Written notice from the bidder not authorized in writing by the CO to exclude any of RCHC requirements contained within the documents may cause that bidder to not be considered for award.
- 3.11 Bidder's Responsibilities; Contact with RCHC:** It is the responsibility of the bidder to address all communication and correspondence pertaining to this IFB process to the

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CO only. Bidders must not make inquiry or communicate with any other RCHC staff member or official (including members of the Board of Directors) pertaining to this IFB. Failure to abide by this requirement may be cause for RCHC to not consider a bid submittal received from any bidder who may has not abided by this directive.

- 3.12 Responsibility for Subcontractors:** All requirements for the “Prime” contractor shall also apply to any and all subcontractors. It is the Prime Contractors’ responsibility to insure the compliance of the subcontractors. Regardless of subcontracting, the Prime Contractor remains liable to RCHC for the performance under this IFB or any resulting contract.
- 3.13 Invitations for Bids (IFB) Amendments:** If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. Bidders shall acknowledge receipt of any amendment to this solicitation by signing and returning the amendment, by identifying the amendment number and date on the bid form by email, letter, or facsimile. RCHC 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 RCHCs requirements. Amendments will be on file in the offices of RCHC and at least **seven (7) calendar days** prior to bid opening. All questions and requests for information must be addressed in writing to the CO. The CO will respond to all such inquiries in writing by amendment to all prospective bidders (i.e. firms or individuals that have obtained the IFB Documents). During the IFB solicitation process, the CO will NOT conduct any *ex parte* (a substantive conversation, “substantive” meaning, when decisions pertaining to the IFB are made between RCHC and a prospective bidder when other prospective bidders are not present) conversations that may give one prospective bidder an advantage over other prospective bidders. This does not mean that prospective bidders may not call the CO, it simply means that other than making replies to direct the prospective bidder where his/her answer has already been issued within the solicitation documents, the CO may not respond to the prospective bidder’s inquiries but will direct him/her to submit such inquiry in writing so that the CO may more fairly respond to all prospective bidders in writing by amendment.
- 3.14 Pre-bid Conference (Job Walk):** The scheduled pre-bid conference/job walk is not mandatory. Many prospective bidders have previously responded to an IFB with a multi-tabbed submittal and feel comfortable in doing so without attending the pre-bid conference. Typically, such conferences last one (1) hour or less, though such is not guaranteed. The purpose of this conference is to assist prospective bidders to have a full understanding of the IFB documents so that he/she feels confident in submitting an appropriate bid; therefore, at this conference RCHC will conduct a brief overview of the IFB documents, including the attachments. Prospective bidders may also ask questions, though the CO may require that some such questions are delivered in writing prior to a response being delivered. Whereas the purpose of this conference is to review the IFB documents, attendees should bring a copy of the IFB documents to this conference; RCHC **will not** distribute at this conference any copies of the IFB documents.

**4.0 BID EVALUATION:**

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**4.1 Public Opening:** At the set date and time, all bids received will be opened and publicly read aloud by the CO, including the company name of the bidder and the total calculated costs proposed. At the bid opening RCHC will only disclose the following information: (a) The company name of each bidder; (b) the calculated total amount bid; and (c) the identity of the apparent lowest bidder. A copy of the bid tabulation or recap recorded will be made available to each member of the public attending such opening and to anyone who requests such afterwards. The bids will not be made available for inspection by anyone at this time. RCHC will, at a later time, review all bids in detail and will notify all bidders of any bidder that is, as a result of the more detailed inspection of bids submitted, ruled to be non-responsive or not-responsible. The RCHC reserves the right to, as determined by RCHC, “waive informalities and minor irregularities” in the offers received.

**4.1.1 Ties:** In the case of tie bids, the award shall be decided by “drawing lots or other random means of selection.”

**4.2 Responsive Bid Evaluation:** After the public opening of bid submittals, all bids received will later be evaluated by the CO for responsiveness, starting with the apparent lowest bidder. Bids not meeting the IFB’s listed minimum requirements are deemed to be non-responsive and shall not be considered further. The CO may then consider the next apparent lowest bidder, in his/her sole and absolute discretion. The non-responsive bidder will be notified of such in writing by RCHC in a timely manner.

**4.3 Responsible Bidder Evaluation:** Once a bid is determined to be responsive to the IFB, the CO will then evaluate the apparent lowest responsive bidder to ensure that he/she or their firm is responsible. If the CO ascertains that such person or firm is responsible, as defined below in Section 4.3.1, the CO may then proceed with a notice of intent to award. If the CO determines that such person or firm is deemed to be not responsible, in his/her sole and absolute discretion, they will be notified of such in writing by RCHC in a timely manner. The non-responsive bidder may request further information and a hearing; in such case the CO may proceed with the noted Responsive and Responsible Evaluations with the next apparent lowest bidder.

**4.3.1 Responsible Bidder Requirements:**

- Have adequate financial resources to perform the contract, or the ability to obtain them;
- Have all necessary and required insurance coverage as listed in the IFB, or the ability to obtain such;
- Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
- Have the necessary management, recruitment sources, personnel and/or training facilities, or the ability to obtain them;
- Be able to comply with the required delivery and performance schedule, taking into consideration all existing commercial and/or governmental business commitments;

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- Have a satisfactory performance record in placement of qualified personnel;
- Have a satisfactory record of integrity and business ethics, and;
- Be otherwise qualified and eligible to receive an award under all applicable laws and regulations, including not being debarred or suspended under a HUD-imposed LDP. Be advised that all persons or contractors that have been suspended or debarred from Federal programs will be indicated as such in the System for Award Management (SAM).

**4.3.2 Additional Evidence of Responsibility:** RCHC reserves the right to request additional information whether in writing or by oral presentation in order to further determine the successful bidder's responsibility. Failure to provide adequate documentation within the specified time period will result in the successful bidder being determined as non-responsible. Additional steps or information may include, but are not limited to:

- Copies of financial statements, credit bureau reports, lines of credit and/or account balances with the successful bidder's financial institutions and/or a breakdown of his/her material costs.
- Copies of any business audits or financial reports.
- Lists of other contracts completed and contact information on past customers.
- A list of all personnel and their requisite experience as it relates to this IFB that are currently available to work.

**4.4 Restrictions:** Any and all persons having ownership interest in a bidder entity or familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a bidder entity will be excluded from participation in the evaluation of the bid.

**4.5 Bid Protest:** Any prospective or actual bidder, who is allegedly aggrieved in connection with the solicitation of a bid or award of a contract, shall have the right to protest. To be eligible to file a protest with RCHC pertaining to an IFB or contract, the alleged aggrieved protestant must have been involved in the IFB process in some manner as a prospective bidder (i.e. registered and received the IFB documents) when the alleged situation occurred. The alleged aggrieved protestant must file, in writing, to RCHC the exact reason for the protest, attaching any supportive data. The protestant must state within the written protest document specifically (not by inference) what action by RCHC or condition is being protested as inequitable, making, where appropriate specific reference to the IFB documents issued and including the specific citation of law, rule, regulation, or procedure upon which the protest is based. The protest document must also state the corrective action requested. Failure by the alleged aggrieved protestant to fully submit such information shall relieve RCHC from any responsibility to take any corrective action, and as a result of noncompliance, the appeal will be dismissed without further review. RCHC has no obligation to consider a protest filed by any party that does not meet these criteria. Any protest against a solicitation must be received before the due date for the receipt of bids, and any protest

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against the award of a contract must be received within ten (10) calendar days after the successful bidder receives notice of the contract award, or the protest will not be considered. All bid protests shall be in writing, submitted to the CO or designee, who shall issue a written decision on the matter. The CO may, at his/her discretion, suspend the procurement pending resolution of the protest if the facts presented so warrant. All appeals shall be marked as follows and sent to the address listed below:

**APPEAL OF IFB NO. 2017-003**  
**Riverside Community Housing Corp. (RCHC)**  
**Attn: George Eliseo, Contracting Officer**  
**5555 Arlington Avenue**  
**Riverside, CA 92504**

**5.0 CONTRACT AWARD:**

**5.1 Lowest Responsive and Responsible Bidder:** An award of a contract pursuant to this IFB, if determined to be in the best interest of RCHC to do so, will be made to the responsive and responsible bidder that submits the lowest cost; in this case, the lowest calculated cost.

**5.1.1 Basis for Determining Lowest Bid:** The lowest bid shall be the lowest total of the base bid amounts on the base contract.

**5.2 Contract Award Procedure:** If a contract is awarded pursuant to this IFB, the following detailed procedures will be followed:

**5.2.1** By completing, executing and submitting the Form of Bid, Attachment A, the successful bidder is thereby agreeing to "abide by all terms and conditions pertaining to this IFB as issued by RCHC, in hard copy, including an agreement to execute the attached Sample Contract form (Attachment F)." The contract clauses already attached as Attachment G also apply. Accordingly, RCHC has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published; and in any case RCHC has no power or authority to negotiate any clauses contained within any attached documents.

**5.2.2** Depending on the amount of the award (typically for amounts greater than \$75,000), RCHC will forward the contract to RCHC Board of Directors (BOD) for approval prior to signing the contract with the lowest responsive and responsible bidder.

**5.2.3** The contract shall be awarded upon a resolution or minute order to that effect duly adopted by RCHC BOD, in their sole and absolute discretion. Execution of the contract documents shall constitute a written memorial thereof.

**5.3 Contract Conditions:** The following provisions are considered mandatory conditions of any contract award made by RCHC pursuant to this IFB:

**5.3.1 Contract Form:** By responding to this IFB and submitting a bid, the successful bidder acknowledges and agrees that RCHC will only execute agreements prepared by RCHC which are substantially approved as to form and substance

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by RCHC. RCHC WILL NOT execute the successful proposer's contract form. Any proposer that does not feel the listed contract clauses or specifications are reasonable or complete shall address such with RCHC in writing during the bidding period (prior to the posted bid submittal deadline). RCHC will consider such clauses and determine in its sole and absolute discretion, whether or not to amend the contract if deemed by RCHC to be in its best interests. **Please note that RCHC has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as a part of this IFB.**

**5.3.2 Assignment of Personnel:** RCHC shall retain the right to demand and receive a change in personnel assigned to the work if RCHC believes that such change is in the best interest of RCHC and the completion of the contracted work.

**5.4 Contract Period (Time of Completion):** The successful bidder agrees to commence work no later than **ten (10) calendar days** after the commencement date specified in the **Notice to Proceed (NTP)** and to fully complete the project within **sixty (60) calendar days**. The NTP is the written notification from RCHC giving the contractor notice to commence with the project. The NTP will specify project details such as the mobilization start date, construction start date, and work completion date. **NOTE:** The timeframe for ordering and delivery of supplies and/or materials is typically not included with the issuance of the NTP. The NTP is issued once RCHC staff and the contractor have mutually agreed to commence construction, installation, erection, alteration, repair and demolition activities.

**5.4.1 Liquidated Damages:** If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to RCHC as liquidated damages, the sum of **\$300.00** for each day of delay.

**5.4.2 Temporary Delay:** RCHC may withhold issuance of the NTP for a period not to exceed **ninety (90) calendar days** after the construction Contract is executed.

**5.4.3 Time of the Essence:** Time is of the essence as to each provision in which a timeframe for performance is provided in this IFB. Failure to meet these timeframes may be considered a material breach, and RCHC may pursue compensatory and/or liquidated damages under the contract.

**5.5 Execution of Work:** All work is to be performed by qualified, competent trained personnel. The contractor is to be licensed and responsible for providing supervision of the work by appropriately identified personnel. RCHC may require the contractor to remove from the work such employees as the local authority deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed by RCHC to be contrary to the public interest. The contractor shall ensure full cooperation of all workers and suppliers and shall be confined to this work only. The contractor and his personnel shall respect the rights of tenants in the surrounding dwellings where work is being performed. The office hours for all locations of RCHC are 8:00 am – 5:00 pm Monday through Friday, or as otherwise specified in the Scope of Work. The contractor's working hours may vary depending upon the type of work being performed. Contractor may work longer hours if approved in advance by RCHC.



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**5.6 Warranty:** All items installed/provided under any contract resulting from this IFB must include a minimum of a one (1) year warranty from the Contractor for labor, materials, and installation except as specified otherwise herein. The period will begin on the date of "FINAL" acceptance by RCHC.

**5.6.1** The services provided under the contract shall conform to all information contained within the IFB documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.

**5.6.2** In addition to all other warranties, the warranty shall include the warranty for merchantability and the warranty of fitness for a particular purpose.

**5.6.3 Assignment of Warranty:** Contractor shall assign any warranties and guarantees to RCHC and provide the Contractor's Warranty for Labor and Installation to RCHC along with all Manufacturers' Warranty documents.

**6.0 PROMPT ACTION BY SUCCESSFUL BIDDER:**

**6.1.1** Upon issuance of the Notice of Award or Notice of Intent to Award, the successful bidder will have **seven (7) calendar days** to supply a payment/performance bond and furnish insurance documents in accordance with the Contract Documents.

**6.1.2 Assurance of Completion (Performance Bond & Payment Bond):** The successful bidder shall furnish an assurance of completion prior to the execution of the construction contract. This assurance shall be a performance and payment bond in a penal sum of 100 percent of the contract price.

**6.1.3 Security substitutions for monies withheld to insure the contractor's performance:** In accordance with Section 22300 of the State of California Public Contract Code, the Contractor at his request and expense will be permitted to substitute equivalent securities for any monies withheld to insure performance.

**6.2 Licensing and Insurance Requirements:** Prior to contract award (but not as a part of the bid submission) the *successful bidder* will be required to provide:

**6.2.1 Insurance:** Without limiting or diminishing the Contractor's obligation to indemnify or hold the Authority harmless, Contractor shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Contract. As respects to the insurance section only, the Authority herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, Board of Directors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**6.2.2 Workers' Compensation:** If the Contractor has employees as defined by the State of California, the Contractor shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State

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of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of RCHC; and, if applicable, to provide a Borrowed Servant/Alternate Employee Endorsement.

**6.2.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, employment practices liability, and cross liability coverage, covering claims which may arise from or out of Contractor's performance of its obligations hereunder. Policy shall name the Authority, the County, its Agencies, Districts, Special Districts, Consultants, Departments, their Directors, Officers, Board of Directors, employees, elected or appointed officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit.

**6.2.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Contract, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit. Policy shall name RCHC, the County, its Agencies, Districts, Special Districts, Consultants, Departments, their Directors, Officers, Board of Directors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**6.2.5 Professional Liability:** If Contractor is providing services or expertise that falls under a quasi-professional role, Contractor shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Contractor's Professional Liability insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of the performance period and Contractor shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or 3) demonstrate through Certificates of Insurance that Contractor has maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

**6.2.6 General Insurance Provisions - All lines:**

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A:VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager acting as the Risk Manager for RCHC. If the County's Risk

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Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

- b. The Contractor must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Contract. Upon notification of self-insured retention unacceptable to the RCHC, and at the election of the County's Risk Manager, Contractor's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Contract with RCHC, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- c. Contractor shall cause Contractor's insurance carrier(s) to furnish the Authority with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the RCHC prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Contract shall terminate forthwith, unless RCHC receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***Contractor shall not commence operations until the RCHC has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section, showing that such insurance is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***
- d. It is understood and agreed to by the parties hereto that the Contractor's insurance shall be construed as primary insurance, and the RCHC's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
- e. If, during the term of this Contract or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Contract, including any extensions thereof, exceeds five (5) years; RCHC reserves the right to adjust the types of insurance and the monetary limits of liability required under this Contract, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the Contractor has become inadequate.

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- f. Contractor shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.
- g. The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the RCHC.
- h. Contractor agrees to notify RCHC of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Contract.

**6.3 Business License:** A copy of the bidder's business license allowing that entity to provide such services within the County of Riverside, State of California.

**6.4 Contractor's License:** A copy of the bidder's license issued by the California Contractors State License Board (CSLB) allowing the bidder to provide the services detailed herein. To be considered, a potential bidder must have a "**C-20**" – **Warm-Air Heating, Ventilating and Air-Conditioning Contractor** license to perform the specialty work, as required under provisions of Public Contract Code Section 3300, and the California Business and Professions Code Sections 7058 and 7059, for work covered in its bid when a bid is submitted. Contractor shall be licensed as required by the jurisdiction in which the service is to be performed and the license shall be current and in good standing.

**6.5 Contract Service Standards:** All work performed pursuant to this IFB must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

## **7.0 ADDITIONAL CONSIDERATIONS**

**7.1 Work on RCHC Property:** If the successful bidder's work under the contract involves operation on RCHC premises, the successful bidder shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and shall immediately return said property to a condition equal to or better than the existing condition prior to the commencement of work at the site at no cost to RCHC

**7.2 Subcontractors:** Unless otherwise stated within the IFB documents, the successful bidder may not use any subcontractors to accomplish any portion of the services described within the IFB documents or the contract without the prior written permission of RCHC. Also, any substitution of subcontractors must be approved in writing by RCHC prior to their engagement.

**7.3 Salaries and Expenses Relating to the Successful Bidders Employees:** Unless otherwise state within the IFB documents, the successful bidder shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State unemployment taxes, and any similar taxes relating to its employees or other personnel furnished under this contract.

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**7.4 Applicable Statutes, Regulations & Orders:** Successful bidders shall comply with all statutes, rules, regulations, executive orders affecting procurements by Housing Authorities including but not limited to:

- 7.4.1 Executive Order 13658
- 7.4.2 Executive Order 11246
- 7.4.3 Executive Order 11063
- 7.4.4 Copeland "Anti-Kickback" Act (18 USC 874)
- 7.4.5 Davis Bacon Act (40 USC 276a-276a-7)
- 7.4.6 Clean Air & Water Acts (42 USC 1857(h); 33 USC 1368)
- 7.4.7 Contract Work Hours & Safety Standards Act (40 USC 327-330)
- 7.4.8 Energy Policy & Conservation Act (PL 94-163, 89 STAT 871)
- 7.4.9 Civil Rights Act of 1964, Title VI (PL 88-352)
- 7.4.10 Civil Rights Act of 1968, Title VIII (PL 90-284 Fair Housing Act)
- 7.4.11 Age Discrimination Act of 1975
- 7.4.12 Anti-Drug Abuse Act of 1988 (42 USC 11901 et. Seq.)
- 7.4.13 HUD Information Bulletin 909-23
- 7.4.14 Immigration Reform & Control Act of 1986
- 7.4.15 Fair Labor Standards Act (29 USC 201, et. Seq.)

**8.0 Recap of Attachments:** It is the responsibility of each bidder to verify that he/she has downloaded the following attachments pertaining to this IFB, which are hereby by reference included as a part of this IFB:

Attachment	Attachment Description
<b>A</b>	Form of Bid
<b>B</b>	Form HUD-5369-A (11/1992), <i>Representations, Certifications, and Other Statements of Bidders, Public and Indian Housing Programs</i>
<b>C</b>	Form of Bid Bond
<b>D</b>	Section 3 Form, including explanation
<b>E</b>	Form of Non-Collusive Affidavit
<b>F</b>	Contractor Designation Form
<b>G</b>	Equal Employment Opportunity Certification
<b>H</b>	Form HUD-5369 (10/2002), <i>Instruction to Bidders for Contracts Public and Indian Housing Programs</i>
<b>I</b>	RCHC Sample Contract Form (please note that this contract is being given as a sample only--RCHC reserves the right to revise any clause herein and/or to include within the ensuing contract any additional clauses that RCHC determines is in its best interests to do so)
<b>J</b>	Form HUD-5370 (01/2014), <i>General Conditions for Construction Contracts Public Housing Programs</i>
<b>K</b>	<i>General Decision Wage Determination Number</i> <b>CA170028 Mod 18 (09/08/2017) CA28</b>
<b>L</b>	Directions for Preparation and Completion of Performance and Payment Bonds * <b>SELECTED/AWARDED CONTRACTOR WILL COMPLETE THE ENCLOSED PERFORMANCE AND PAYMENT BOND (LABOR AND MATERIALS BOND)</b>

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**FORM OF BID (ATTACHMENT A)**

- A. Each bidder shall submit his/her bid amount on this form only, which shall be completed, signed and returned to RCHC with Bid.
- B. **Base Bid Amount:** The Form of Bid shall be completed and submitted by the bidder. The undersigned, having familiarized themselves with the local conditions affecting the cost of the work (including Invitation for Bid, this Form of Bid, the Form of Bid Bond, the Form of Performance Bond and Payment Bond (Labor and Materials Payment Bond), the General Conditions, the Scope of Work/Technical Specifications, and Addenda (if any thereto) and all other documents in the bid package, should base their prices accordingly. The bid amount shall be all-inclusive of all related costs that the Contractor will incur to provide the noted services, including, but not limited to: employee wages and benefits, clerical support, overhead, profit, labor, licensing, taxes, fees, insurance, materials, supplies, tools, equipment, shipping, permits, long distance telephone calls; document copying; and services for the **(IFB # 2017-003) HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS 4675 JACKSON STREET, RIVERSIDE, CA 92503 (APN: 191-110-003)** strict accordance therewith and for the bid amount specified below.

BASE BID		
Item #	Description	Bid/Fee Amount
1	Removal of 62 existing HVAC units and installation of 62 (new) 2 ½ - ton HVAC units. All as indicated in the scope of work (SOW) and contract documents	\$
<b>TOTAL BASE BID/FEE AMOUNT</b>		\$

- C. **Basis for Determining Lowest Bid Amount:** The lowest bid shall be the lowest total of the base bid amounts on the base contract.
- D. **Bid Guarantee:** Security in the sum of [10% of bid/fee amount (item A)]: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in the form of \_\_\_\_\_ is submitted.
- E. **Amendment:** This bid includes addenda numbered for each project as follows:
- Amendment #1                      Date: \_\_\_\_\_                      Amendment #3                      Date: \_\_\_\_\_
- Amendment #2                      Date: \_\_\_\_\_                      Amendment #4                      Date: \_\_\_\_\_
- F. **Performance Bond and Payment Bond:** The undersigned agrees that, if he is selected as the Contractor, he will within ten days, Saturdays, Sundays, and legal holidays excluded, after presentation thereof by the Authority, execute a contract in accordance with the terms of this Form of Bid furnish a Performance Bond and a Payment Bond (Labor and Materials Payment Bond), each of a surety company qualified to do business under the laws of California and satisfactory to the RCHC and each in the sum of at least one hundred percent of the contract price, the premium for which are to be paid by the Contractor and are included in the contract price.
- G. **Quantities:** The undersigned understands that RCHC reserves the right to increase or decrease the amount of any class or portion of the work, or to omit any item of the work as may be deemed necessary or expedient by RCHC. RCHC does not guarantee any minimum or maximum amount of work as a result of any award ensuing from this IFB. RCHC shall retain one contractor only and shall retain the right to order from that contractor (successful bidder), on a task order basis, any amount of services RCHC requires.

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HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

- H. Non-Collusive:** The Bidder declares that he/she is the only person interested in this response and that this bid is made without connection or arrangement with any other person or RCHC employee, and that this bid is in every respect fair, in good faith, and without collusion or fraud.
- I.** The undersigned hereby agrees to commence work under this contract on or after the date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT within **SIXTY (60) CALENDAR DAYS.**
- J.** The undersigned offers the following information as evidence of this qualification to perform the work as bid upon according to all the requirements of the plans and specifications.
1. Have been in business under (present name) \_\_\_\_\_ since \_\_\_/\_\_\_/\_\_\_
  2. Have you been awarded any jobs but failed to complete? \_\_No \_\_Yes (please explain):  
\_\_\_\_\_
  3. List work completed/ongoing in the last two years:

**Projects for Riverside Community Housing Corp. (if applicable)**

Project Description		Contract Amount:
Job was _____ Davis Bacon or _____ State Prevailing Wage		
Contact Person Name, Address Phone & Fax Nos.		
Owner Name:	Completion Date:	
Project Description		Contract Amount:
Job was _____ Davis Bacon or _____ State Prevailing Wage		
Contact Person Name, Address Phone & Fax Nos.		
Owner Name:	Completion Date:	

**Other Projects**

Project Description		Contract Amount:
Job was _____ Davis Bacon or _____ State Prevailing Wage or _____ Other		
Contact Person Name, Address Phone & Fax Nos.		
Owner Name:	Completion Date:	
Project Description		Contract Amount:
Job was _____ Davis Bacon or _____ State Prevailing Wage or _____ Other		
Contact Person Name, Address Phone & Fax Nos.		
Owner Name:	Completion Date:	

**4. Banking Information**

Bank Name: \_\_\_\_\_  
 Branch Location: \_\_\_\_\_  
 Account Name: \_\_\_\_\_

- K.** If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed, and the sale is exempt from such excise tax because it is a sale to a state or local government, then RCHC, upon request, will execute documents necessary to show: (1) that RCHC is a political subdivision for the purposes of such exemption; and (2) that the sale is for the exclusive use of RCHC. No excise tax for such materials shall be included in any price (including, without limitation, the Bid) submitted by Contractor for the Work or for Changes in the Work.

**INVITATION FOR BIDS (IFB) NO. 2017-003  
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- L. The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.
  
- M. The undersigned represents that he has (\_\_\_\_) he has not (\_\_\_\_) participated in a previous contract or subcontract subject to the equal opportunity clause prescribed by U.S. Executive Orders 10925, 11114, or 11246 or the Secretary of Labor; that he has (\_\_\_\_) he has not (\_\_\_\_) filed all required compliance reports; and that representations indicating submission of required compliance reports; signed by proposed subcontractors will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause).

**COMPLETED BY:** (NOTE: The penalty for making false statements in bids/offers is prescribed in 18 U.S.C. 1001.)

Print Name	Title	Email
Signature	Date	Telephone Number
Company Name	Address (Street; City; State; Zip)	
CSLB License Number	Expiration Date	CSLB License Designation
D.I.R. Registration Number		

**BIDDER'S STATEMENT**

The undersigned bidder hereby states that by completing and submitting this Form and all other documents within this bid submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if the RCHC discovers that any information entered herein to be false, such shall entitle the RCHC to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the form of bid, the undersigned bidder is thereby agreeing to abide by all terms and conditions pertaining to this IFB as issued by the RCHC, in hard copy, including an agreement to execute the attached Sample Contract form. Pursuant to all IFB Documents, this Bid Submittal Form, and all attachments, and pursuant to all completed Documents submitted, including these forms and all attachments, the undersigned proposes to supply the RCHC with the services described herein for the fee(s) entered within the areas provided in the Form of Bid.

Signature	Date	Printed Name	Company
-----------	------	--------------	---------



**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**“Form HUD 5369-A”**

(This Form must be fully completed and placed under Tab No. 2 of the “hard copy” tabbed bid submittal.)

**ATTACHMENT B**

**(behind this page)**

**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)(1) 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)(1) 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)

**INVITATION FOR BIDS (IFB) NO. 2017-003**  
**HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**“Form of Bid Bond”**

(This Form must be fully completed and placed under Tab No. 3 of the “hard copy” tabbed bid submittal.)

**ATTACHMENT C**

**(behind this page)**

**ATTACHMENT C**

**FORM OF BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned:

\_\_\_\_\_, as PRINCIPAL,

AND \_\_\_\_\_, as SURETY,

are held and firmly bound unto Riverside Community Housing Corp., hereinafter called the "RCHC", in the penal sum of \_\_\_\_\_

\_\_\_\_\_ Dollars, lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated \_\_\_\_\_, for \_\_\_\_\_

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

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified therefore enter into a written contract with the RCHC in accordance with the bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal shall pay the RCHC the difference between the amount specified in said bid and the amount for which the RCHC may procure the required work or supplies or both, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In presence of:

\_\_\_\_\_  
(Individual Principal) (seal)

\_\_\_\_\_  
(Address) (Business Address)

\_\_\_\_\_  
(Individual Principal) (seal)

\_\_\_\_\_  
(Business Address)

ATTEST:

\_\_\_\_\_  
(Corporate Principal)

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
(Affix Corporate Seal)

\_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
(Corporate-Surety)

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
(Affix Corporate Seal)

\_\_\_\_\_  
(Print or type the names underneath all signatures.)

Power -of-attorney for person signing for Surety Company must be attached to bond.)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
Secretary of the corporation named as Principal in the within bond; that \_\_\_\_\_  
who signed the said on behalf of the Principal was then \_\_\_\_\_  
of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond  
was duly signed, sealed, and attested to for and in behalf of said corporation by authority of its  
governing body.

\_\_\_\_\_  
(Corporate Seal)



**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**“Section 3 Requirements”**

(This Form must be fully completed and placed under Tab No. 4 of the “hard copy” tabbed bid submittal.)

**ATTACHMENT D**

**(behind this page)**

**ATTACHMENT D**

**RIVERSIDE COMMUNITY HOUSING CORP.**

**SECTION 3**

**24 CFR PART 135**

**ECONOMIC OPPORTUNITIES FOR  
LOW-AND VERY LOW-INCOME PERSONS**

**CONTRACT REQUIREMENTS**

**RIVERSIDE COMMUNITY HOUSING CORP.  
 CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 BUSINESS PREFERENCE  
 IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

NAME OF BUSINESS: \_\_\_\_\_

ADDRESS OF BUSINESS: \_\_\_\_\_

TYPE OF BUSINESS:       Corporation       Partnership       Sole Proprietorship       Joint Venture

Attached is the following documentation as evidence of status:

**For business claiming status as a Section 3 resident-owned Enterprise:**

Copy of resident lease       Other evidence       Copy of evidence of participation in a public assistance program

**For the business entity as applicable:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of Articles of Incorporation                                       | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate                                       | <input type="checkbox"/> Partnership Agreement        |
| <input type="checkbox"/> List of owners/stockholder and % of each                                | <input type="checkbox"/> Corporation Annual Report    |
| <input type="checkbox"/> Latest Board minutes appointing officers                                | <input type="checkbox"/> Additional documentation     |
| <input type="checkbox"/> Organization chart with names and titles and brief functional statement |   |

**For business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 business:**

List of subcontracted Section 3 business and subcontract amount

**For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- |  |   |
|--|---|
| <input type="checkbox"/> List of all current full time employees                           | <input type="checkbox"/> List of all employees claiming Section 3 status                                |
| <input type="checkbox"/> PHA Residential lease (less than 3 years from date of employment) | <input type="checkbox"/> Other evidence of Section 3 status (less than 3 years from date of employment) |

**Evidence of ability to perform successfully under the terms and conditions of the proposed contract:**

- |   |  |
|---|--|
| <input type="checkbox"/> Current financial statement    | <input type="checkbox"/> List of owned equipment                                       |
| <input type="checkbox"/> Statement of ability to comply | <input type="checkbox"/> List of all contracts for the past 2 years with public policy |

Persons in Household	1	2	3	4	5	6	7	8
Low Income	\$36,150	\$41,300	\$46,450	\$51,600	\$55,750	\$59,900	\$64,000	\$68,150
Very Low Income	\$22,600	\$25,800	\$29,050	\$32,250	\$34,850	\$37,450	\$40,000	\$42,600

A new hire is qualified as a Section 3 resident if he/she resides in Riverside or San Bernardino County and his/her total family income is less than the family income shown above for his/her household size.

**Corporate Seal**

Authorizing Name and Signature	Notary
Title	My term expires: _____
Signature	Date
	Printed Name

## SECTION 3 BUSINESS PREFERENCE

### RIVERSIDE COMMUNITY HOUSING CORP.

#### I. Section 135.1 Purpose

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

#### Section 135.30 Numerical Goals for Meeting the Greatest Extent Feasible Requirement

##### A. GENERAL

- (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the numerical goals set forth in this Section for providing training, employment, and contracting opportunities to Section 3 residents and Section 3 Business Concerns.
- (2) The goals established in this section apply to the entire amount of the Section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY) commencing with the first FY following the effective date of this rule - (October 1, 1994).
- (3) For Recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to Section 3 residents and Section 3 Business Concerns.
- (4) The numerical goals established in this Section represent minimum numerical goals.

##### B. TRAINING AND EMPLOYMENT

The numerical goals set forth in this Section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ Section 3 residents, to the greatest extent feasible, should be made at all levels.

Recipients of Section 3 covered community development assistance, and their contractors and subcontractors may demonstrate compliance with the requirements of this part by committing to employ Section 3 residents as:

- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995 (October 1, 1994 to September 30, 1995),
- (ii) 20 percent of the aggregate number of the new hires for the one year period beginning in FY 1996 (October 1, 1995 to September 1996); and
- (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter (October 1, 1996 and thereafter).

### C. CONTRACTS

Numerical goals set forth in this Section apply to contracts awarded in connection with all Section 3 covered project and Section 3 covered activities. Each recipient and contractor and subcontractor may demonstrate compliance with the requirements of this part by committing to award to Section 3 Business Concerns:

- (1) At least 10 percent to of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
- (2) At least three (3) percent of the total dollar amount of all other Section 3 covered contracts.

### D. SAFE HARBOR AND COMPLIANCE DETERMINATIONS

- (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the Section 3 preference requirements.
- (2) In evaluating compliance, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in Sec. 135.40, which were provided in its efforts to comply with Section 3 and the requirement of this part.

## III. **SECTION 135.34 Preference for Section 3 Residents in Training and Employment Opportunities.**

A. Order of providing preference. Recipients, contractors, and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority provided in this section.

- (1) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:
  - (i) Section 3 residents residing in the Riverside or San Bernardino County (collectively, referred to as category 1 residents); and
  - (ii) Participants in HUD Youth build programs (category 2 residents).
  - (iii) Where the Section 3 project is assisted under the Stewart B. McKinney NSP3less Assistance Act (42 U.S.C. 11301 et seq.), NSP3less persons residing in the Riverside or San Bernardino County shall be given the highest priority;

B. Eligibility for Preference: A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Sec. 135.5 (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

C. Eligibility for employment: Nothing in this part shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

#### **IV SECTION 135.36 Preference for Section 3 Business Concerns in Contracting Opportunities.**

- A. Order of Providing Preference: Recipients, contractors and subcontractors shall direct their efforts to award Section 3 covered contract, to the greatest extent feasible, to Section 3 Business Concerns in the order of priority provided in this section.
- (1) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:
- (i) Section 3 business concerns that provide economic opportunities for Section 3 residents in the Riverside or San Bernardino County (category 1 businesses); and
- (ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
- (iii) Other Section 3 business concerns.
- B. Eligibility for Preference: A Business Concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, if requested, that the Business Concern is a Section 3 Business Concern as defined in Section 135.5.
- C. Ability to Complete Contract: A Section 3 Business Concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36 (b) (8)). This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

#### **SECTION 135.38 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 of 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 actions, 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 35 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. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprise. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).*

## **VI. SECTION 135.40 Providing Other Economic Opportunities**

- A. General. In accordance with the findings of the Congress, as stated in Section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with Section 3 covered assistance.
- B. Other training and employment related opportunities. Other economic opportunities to train and employ Section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring Section 3 residents in management and maintenance positions within other housing developments; and hiring Section 3 residents in part-time positions.
- C. Other business related economic opportunities:
  - (1) A recipient or contractor may provide economic opportunities to establish stabilize or expand Section 3 Business Concerns, including micro-

enterprises. Such opportunities include, but are not limited to the formation of Section 3 Joint Ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from Public Housing Agency resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-Section 3 businesses to utilize such methods to provide other economics opportunities to low-income persons.

- (2) A Section 3 Joint Venture means an association of Business Concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the Business Concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:
- (i) Is responsible for clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
  - (ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

## **VII. SECTION 135.5 Definitions.**

As used in this part:

**Applicant** means any entity which makes an application for Section 3 covered assistance and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, owner, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

**Assistant Secretary** means the Assistant Secretary for Fair Housing and Equal Opportunity.

**Business Concern** means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contract.** See the definition of "Section 3 covered contract" in this section.

**Contractor** means any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Department or HUD** means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

**Employment opportunities generated by Section 3 covered assistance** means (with respect to Section 3 covered housing and community development assistance), this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3(a) (2)), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs, include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.



**Housing and community development assistance** means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

**Housing development** means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

**HUD Youth build Programs** means programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for NSP3less individuals and members of low and very low-income families.

**Low income person.** See the definition of "Section 3 Resident" in this section.

**New hires** mean full-time employees for permanent, temporary, or seasonal employment opportunities.

**Public Housing resident** has the meaning given this term in 24 CFR Part 963.

**Recipient** means any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit or local government, PHA, Indian Housing Authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, owner, PARTICIPANT, developer, limited dividend sponsor, builder, property manager, community development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Secretary** means the Secretary of Housing and Urban Development.

**Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)

**Section 3 Business Concern** means a business concern, as defined in this Section:

- (1) That is 51 percent or more owned by Section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in Sections (1) or (2) in this definition of "Section 3 Business Concern"

**Section 3 Clause** means the contract provisions set forth in Sec. 135.38.

**Section 3 covered activity** means any activity which is funded by Section 3 covered assistance public and Indian housing assistance.

**Section 3 covered assistance** means:

- (1) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:
  - (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement):
  - (ii) Housing construction; or
  - (iii) Other public construction project (which includes other buildings or improvements regardless of ownership).

**Section 3 covered contract** means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by Section 3.

**Section 3 covered project** means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 resident means:**

- (1) A public housing resident; or
- (2) An individual who resides in the San Bernardino or Riverside County, and who is:
  - (i) A low income person, is defined as families whose incomes do not exceed 80 percent of the median income for the Riverside and San Bernardino Counties, as determined by the Secretary, with adjustments for smaller and larger families.
  - (ii) A very low income person, is defined as families whose incomes do not exceed 50 percent of the median income for the Riverside and San Bernardino Counties, as determined by the Secretary, with adjustments for smaller and larger families.
  - (iii) A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

**Subcontractor** means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low income person.** See the definition of "Section 3 resident" in this section.

## **PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES**

RCHC has established the following priority for preference when providing contracting opportunities to Section 3 Businesses:

### **Priority I**

#### **Category 1a Business**

Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3-covered assistance is expended.

### **Priority II**

#### **Category 1b Business**

Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.

### **Priority III**

#### **Category 2a Business**

Business concerns that are 51 percent or more owned by residents of any other housing development or developments.

### **Priority IV**

#### **Category 2b Business**

Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.

### **Priority V**

#### **Category 3 Business**

Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistance is expended.

### **Priority VI**

#### **Category 4a Business**

Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.

### **Priority VII**

#### **Category 4b Business**

Business concerns that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

### **Eligibility for Preference**

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.

HUD directs within 24 CFR 135 that the HA may make award to qualified Section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid is:

- (a) within the maximum total contract price established by the HA; or
- (b) not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

"X" = LESSOR OF:	
When the lowest responsive bid is less than \$100,000	10% of that bid, or \$9,000.00
When the lowest responsive bid is at least:	
\$100,000.00, but less than \$200,000.00	9% of that bid, or \$16,000.00
\$200,000.00, but less than \$300,000.00	8% of that bid, or \$21,000.00
\$300,000.00, but less than \$400,000.00	7% of that bid, or \$24,000.00
\$400,000.00, but less than \$500,000.00	6% of that bid, or \$25,000.00
\$500,000.00, but less than \$1,000,000.00	5% of that bid, or \$40,000.00
\$1,000,000.00, but less than \$2,000,000.00	4% of that bid, or \$60,000.00
\$2,000,000.00, but less than \$4,000,000.00	3% of that bid, or \$80,000.00
\$4,000,000.00, but less than \$7,000,000.00	2% of that bid, or \$105,000.00
\$7,000,000.00, or more	1.5% of the lowest responsive and responsible bid with no dollar limit

**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**“Form of Non-Collusive Affidavit”**

**ATTACHMENT E**

**(behind this page)**

**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**FORM OF NON-COLLUSIVE AFFIDAVIT**

State of \_\_\_\_\_ )

ss.

County of \_\_\_\_\_ )

\_\_\_\_\_,  
being first sworn, deposes and says:

That he is \_\_\_\_\_  
(a partner or officer of the firm of, etc.)

the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed 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 bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Riverside Community Housing Corp. or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Bidder is:

A Corporation

A Partnership

An Individual

\_\_\_\_\_  
Signature of Bidder

Printed Name \_\_\_\_\_

Printed Title \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
My commission expires \_\_\_\_\_.

**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

**CONTRACTOR DESIGNATION FORM (ATTACHMENT F)**

**THIS TWO (2) PAGE FORM MUST BE COMPLETED BY EACH GENERAL AND SUB-CONTRACTOR**

(This Form must be fully completed and placed under Tab No. 5 of the "hard copy" tabbed bid submittal.)

(1) General/Prime \_\_\_\_\_ Sub-contractor<sup>1</sup> \_\_\_\_\_ (This 2-page Form must be completed by each General and Sub-Contractor.)

(2) IF NO SUBCONTRACTORS WILL BE UTILIZED, PLEASE CHECK THE FOLLOWING BOX No  Initials \_\_\_\_\_  
"NO SUBCONTRACTORS - PRIME CONTRACTOR INTENDS TO PERFORM ALL WORK DETAILED IN THIS IFB"

(3) Name of Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

(4) Street Address, City, State, Zip: \_\_\_\_\_

(5) Please attached a brief biography/resume of the company, including the following information:

(a) Year Firm Established; (b) Year Firm Established in [JURISDICTION]; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).

(6) Identify Principals/Partners in Firm (submit under Tab No. 7 a brief professional resume for each):

NAME	TITLE	% OF OWNERSHIP

(7) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit under Tab No. 7 a brief resume for each. (Do not duplicate any resumes required above):

NAME	TITLE

(8) Proposer Diversity Statement: You must circle all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

Caucasian       Public-Held       Government       Non-Profit  
 American (Male) Corporation      Agency      Organization  
 \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%

Resident- (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following:

Resident-  African  \*\*Native  Hispanic  Asian/Pacific  Hasidic  Asian/Indian  
 Owned\* American American American American Jew American  
 \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%

Woman-Owned  Woman-Owned  Disabled  Other (Specify):  
 (MBE) (Caucasian) Veteran  
 \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%      \_\_\_\_\_%

WMBE Certification Number: \_\_\_\_\_ Certified by (Agency): \_\_\_\_\_  
 (NOTE: A CERTIFICATION/NUMBER NOT REQUIRED TO PROPOSE – ENTER IF AVAILABLE)

(9) Federal Tax ID No.: \_\_\_\_\_ (10) County of Riverside Business License No.: \_\_\_\_\_

(11) Contractor's State Licensing Board No.: \_\_\_\_\_ D.I.R. Registration No.: \_\_\_\_\_

Portion (Type) of Work: \_\_\_\_\_





**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**“Equal Employment Opportunity Certification Form”**

**ATTACHMENT G**

**(behind this page)**

**Equal Employment  
Opportunity Certification**  
Excerpt From 41 CFR §60-1.4(b)

U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner

Department of Veterans Affairs  
OMB Control No. 2502-0029  
(exp. 9/30/2016)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor 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, 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 agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor 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 advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor 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.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, 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 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.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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 subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: **Provided, however,** That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

**Provided,** That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed

Firm Name and Address

By

Title

upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

#### **Excerpt from HUD Regulations**

200.410 Definition of term "applicant".

- (a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term "applicant" as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph(a) of this section, the term "applicant" as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420 Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, 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 agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

- (2) The contractor will 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 race, creed, color, or national origin.

- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order 10925 of March 6 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

- (5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

- (6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

- (7) The contractor will include the provisions of Paragraphs(1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, 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 orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (b) Except in subcontracts for the performance of construction work at the site of construction, the clause is not required to be inserted in subcontracts below the second tier. Subcontracts may incorporate by reference to the equal opportunity clause.

200.425 Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:

- (1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.

- (2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;

- (3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;

- (4) Contracts for the sale of Government property where no appreciable amount of work is involved; and

- (5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.

**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**ATTACHMENT H**

**“HUD Form 5369”**

**(behind this page)**

**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, except 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 be 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.

**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**ATTACHMENT I**

**“RCHC Sample Contract”**

**(behind this page)**

1                                   **CONSTRUCTION CONTRACT BY AND BETWEEN**  
2                                   **RIVERSIDE COMMUNITY HOUSING CORP.**

3                   **AND** \_\_\_\_\_

4                   **FOR** \_\_\_\_\_

5 This CONTRACT is made by and between Riverside Community Housing Corp., a California nonprofit  
6 public benefit corporation, hereinafter referred to as "RCHC", and \_\_\_\_\_,  
7 hereinafter referred to as "CONTRACTOR."

8                                   **RECITALS**

- 9           A.     RCHC is the owner of a certain real property located in the County of Riverside,  
10                   commonly known as \_\_\_\_\_, hereinafter  
11                   referred to as "PROPERTY;"
- 12           B.     The term "PROJECT" includes performance, as set forth in the Contract Documents, by  
13                   the CONTRACTOR, of all work or improvements on, in and about the PROPERTY;
- 14           C.     RCHC desires that the CONTRACTOR perform the PROJECT on the terms and  
15                   conditions hereinafter set forth, and CONTRACTOR agrees to perform said PROJECT on  
16                   the terms and conditions set forth below.

17           NOW, THEREFORE, RCHC and CONTRACTOR, for the consideration set forth herein,  
18 mutually agree as follows:

19                                   **ARTICLE I**

20                                   **THE CONSTRUCTION CONTRACT**

21 1.1     The Contract Documents means and includes, without limitation, all of the following which are  
22 incorporated herein by this reference and are made a part of this CONTRACT as if fully set forth herein.

23 The Contract Documents consist of the following component parts:

- 24           1.     Invitation for Bids (IFB), or Quotations for Small Purchases (i.e. Request for Quotes), as  
25 applicable.
- 26           2.     Instructions to Bidders for Contracts Public and Indian Housing Programs HUD-5369  
27 (10/2002)
- 28

- 1           3.     Representations, Certifications, and other Statements of Bidders (HUD-5369-A)
- 2           4.     Bid Proposal, including:
  - 3           a.     Form of Bid or Form of Quote, as applicable.
  - 4           b.     Non-Collusive Affidavit
  - 5           c.     Designation of Subcontractors
- 6           5.     Payment and Performance Bonds
- 7           6.     Davis-Bacon Prevailing Wage Decision No. \_\_\_\_\_
- 8           7.     General Conditions for Construction Contracts. Public Housing Programs HUD-5370
- 9     (11/2006)
- 10          8.     Supplemental General Conditions
- 11          9.     Drawings and photographs
- 12          10.    Specifications
- 13          11.    Addenda

**ARTICLE 2**

**STATEMENT OF PROJECT WORK**

16     2.1    Scope of Services

17     CONTRACTOR shall furnish all labor, material, equipment and services and perform and complete all  
18     Work for the PROJECT identified as \_\_\_\_\_,  
19     for RCHC. CONTRACTOR shall perform all services Monday – Friday, 7:30 a.m. to 5:30 p.m.

20           2.1.1. The full scope of Work is described in the Contract Documents and more specifically in  
21           the approved plans and specifications.

22           2.1.2 All such Work shall be in strict accordance with the CONTRACT, specifications, addenda  
23           thereto and the drawings included therein, all as prepared by RCHC.

24     2.2    Site Conditions

25     Data provided in the specifications and drawings are believed to depict the conditions to be encountered  
26     by the CONTRACTOR, but RCHC does not guarantee such data as being all-inclusive or complete in  
27     every respect. Nothing contained herein shall relieve CONTRACTOR from making any and all  
28

1 investigations he/she may deem necessary to apprise him/herself of the Work. CONTRACTOR'S  
2 submission of its bid and execution of the CONTRACT constitutes its representation, acknowledgement  
3 and agreement that it had sufficient time, access and opportunity prior to the bid closing to conduct a  
4 careful and thorough examination, to its satisfaction of: the Contract Documents, and other information  
5 provided by RCHC prior to bid closing concerning the PROJECT, site or existing improvements; the  
6 visible conditions at the site and its surroundings, visible conditions of existing improvements and their  
7 existing uses, and local conditions in the vicinity of the site; the status of any construction at the site  
8 concurrently under construction; and all information concerning visible and concealed conditions above  
9 and below the surface of the ground at the site and in existing improvements, including without limitation,  
10 surveys, reports, data, as-built drawings of existing improvements and utility sources, that was either  
11 provided by RCHC to CONTRACTOR or was reasonably available to CONTRACTOR for review in the  
12 public records.

### 13 **ARTICLE 3**

#### 14 **TIME OF COMMENCEMENT AND COMPLETION**

##### 15 3.1 Time for Completion

16 The Work, as defined in the General Conditions, to be performed under this CONTRACT shall  
17 commence within ten (10) days after a Notice to Proceed is received by the CONTRACTOR, or on the  
18 date specified in the Notice, whichever is later, and shall be completed within \_\_\_\_\_  
19 following the said date. Time is of the essence under this CONTRACT as to each provision in which  
20 time of performance is a factor.

##### 21 3.2 Liquidated Damages

22 3.2.1 If the CONTRACTOR fails to complete the PROJCT within the time specified in the  
23 Contract, or any extension, as specified in the clause entitled Default (General Conditions HUD-5370  
24 Clause No. 32), the CONTRACTOR shall pay to RCHC as liquidated damages, the sum of  
25 \_\_\_\_\_ for each day of delay. If different completion dates are specified in  
26 the contract for separate parts or stages of the Work, the amount of liquidated damages shall be assessed  
27 on those parts or stages which are delayed. To the extent that the CONTRACTOR'S delay or  
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1 nonperformance is excused under another clause in this CONTRACT, liquidated damages shall not be  
2 due RCHC. The CONTRACTOR remains liable for damages caused other than by delay.

3 3.2.2 If RCHC terminates the CONTRACTOR'S right to proceed, the resulting damage will  
4 consist of liquidated damages until such reasonable time as may be required for final completion of the  
5 PROJECT together with any increased costs occasioned RCHC in completing the PROJECT.

6 3.2.3 If RCHC does not terminate the CONTRACTOR'S right to proceed, the resulting damage  
7 will consist of liquidated damages until the PROJECT is completed or accepted.

#### 8 **ARTICLE 4**

#### 9 **CONTRACT SUM**

10 4.1 RCHC shall pay the CONTRACTOR for the performance of the Work, subject to the additions  
11 and/or deductions by Change Order(s) as provided in the CONTRACT, the sum of

12 \_\_\_\_\_  
13 (Contract Sum).

14 The CONTRACTOR exceeds the contract sum amount at his/her own risk. The Contractor is  
15 under no obligation to provide additional services that would cause the CONTRACTOR's fees to exceed  
16 the contract sum without prior revision of this amount by written change order.

17 4.1.1 All construction contracts for construction, alternation, or repair (including painting and  
18 decorating) of public buildings or public works , in excess of \$2,000 in which federal funds are used, shall  
19 be subject to Davis-Bacon Act (40 U.S.C, 276a to 276a-7) prevailing wage laws. CONTRACTOR  
20 represents and warrants that s/he shall pay her/his employees and all individuals performing work, not  
21 less than the prevailing wage rate as determined by the U.S. Department of Labor ([www.wdol.gov](http://www.wdol.gov)).

22 Prevailing wage rates are amended/modified from time to time, and the most current wage decision is  
23 available from RCHC. CONTRACTOR shall abide by the Federal Labor Standards Provisions (HUD-  
24 5370 Clause No. 46).

25 4.2 The Contract Sum set forth herein includes the payment by CONTRACTOR of all sales and use  
26 taxes required by local codes, or any law existing or which may hereafter be adopted by federal, state or  
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1 governmental authority, taxing the materials, services required or labor furnished, and of any other tax  
2 levied by reason of the Work to be performed hereunder.

3 4.3 The Contract Sum is not subject to escalation, the CONTRACTOR having satisfied him/herself  
4 that the Contract Sum includes all labor and material increases anticipated throughout the duration of this  
5 CONTRACT.

## 6 **ARTICLE 5**

### 7 **PROGRESS PAYMENTS**

8 5.1 Based upon applications for payment submitted by the CONTRACTOR to RCHC, and certificates  
9 for payment issued by the Architect/Consultant, if any, RCHC shall make progress payments on account  
10 of the Contract Sum to the CONTRACTOR, as provided in the General Conditions of the Construction  
11 Documents.

12 5.2 RCHC shall promptly review applications for payment and provide its approval or disapproval, in  
13 whole or in part, within fifteen (15) calendar days after receipt of an application for payment requesting  
14 progress payment. Approved applications for progress payments will be paid by the 30<sup>th</sup> day of each  
15 month, provided that the application for payment has been submitted to RCHC on or before the first  
16 working day of the month.

## 17 **ARTICLE 6**

### 18 **INDEMNIFICATION AND HOLD HARMLESS**

19 6.1 CONTRACTOR shall indemnify and hold harmless RCHC, County of Riverside, its Agencies,  
20 Districts, Special Districts and Departments, their respective directors, officers, Board of Commissioners,  
21 Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually  
22 and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, including but not  
23 limited to property damage, bodily injury or death, based or asserted upon any services of  
24 CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any  
25 way relating to this. CONTRACTOR shall defend at its sole expense and pay all costs and fees, including  
26 but not limited to, attorney fees, costs of investigation, defense and settlements or awards, on behalf of the  
27 Indemnitees, in any claim or action based upon such services.

1 6.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR,  
2 CONTRACTOR shall, at their sole cost, have the right to use counsel of their choice and shall have the  
3 right to adjust, settle, or compromise any such action or claim without the prior consent of RCHC;  
4 provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits  
5 or circumscribes CONTRACTOR'S indemnification to the Indemnitees as set forth herein.

6 6.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided  
7 RCHC the appropriate form of dismissal relieving RCHC from any liability for the action or claim  
8 involved.

9 6.4 The specified insurance limits required in this Construction Contract shall in no way limit or  
10 circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from  
11 third party claims.

12 6.5 In the event there is a conflict between this clause and California Civil Code Section 2782, this  
13 clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the  
14 CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

## 15 **ARTICLE 7**

### 16 **INSURANCE**

17 7.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold RCHC  
18 harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and  
19 expense, the following insurance coverages during the term of this CONTRACT. As respects to the  
20 insurance section only, RCHC herein includes and refers to Riverside Community Housing Corp., County  
21 of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors,  
22 officers, Board of Commissioners, Board of Supervisors, employees, elected or appointed officials, agents  
23 or representatives as Additional Insureds.

#### 24 7.1.1. Workers' Compensation:

25 If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall  
26 maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State  
27 of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease  
28



1 with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive  
2 subrogation in favor of RCHC.

3 7.1.2 Commercial General Liability:

4 Commercial General Liability insurance coverage, including but not limited to, premises liability,  
5 unmodified contractual liability, products and completed operations liability, personal and advertising  
6 injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S  
7 performance of its obligations hereunder. Policy shall name RCHC as Additional Insured. Policy's limit  
8 of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance  
9 contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2)  
10 times the occurrence limit.

11 7.1.3 Vehicle Liability:

12 If vehicles or mobile equipment are used in the performance of the obligations under this CONTRACT,  
13 then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so  
14 used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance  
15 contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2)  
16 times the occurrence limit. Policy shall name RCHC as Additional Insureds.

17 7.1.4 Course of Construction Insurance:

18 During the full term of construction, CONTRACTOR shall purchase and maintain or cause to be  
19 maintained All Risk Builder's Risk insurance (Completed Value Form) including earthquake and flood  
20 for the entire PROJECT, if applicable, including coverage for materials and supplies located on and  
21 offsite but to be part of, or used in the construction of, the completed PROJECT. Policy shall also include  
22 as insured property, scaffolding, falsework, and temporary buildings located on the PROJECT site, and  
23 the cost of demolition and debris removal. If the contractor or others insure scaffolding, falsework and  
24 temporary buildings separately, evidence of such separate coverage shall be provided to RCHC prior to  
25 the start of the work. The Course of Construction coverage limit of insurance shall equal or exceed the  
26 highest values exposed to loss at any one time during the project term. Policy shall waive subrogation in  
27 favor of all of RCHC, Agencies, Districts, Special Districts, and Departments of the County of Riverside,  
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1 their respective directors, officers, Board of Commissioners, Board of Supervisors, employees, elected or  
2 appointed officials, agents or representatives.

3 7.1.5 General Insurance Provisions - All lines:

- 4 1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State  
5 of California and have an A M BEST rating of not less than A: VIII (A:8) unless such  
6 requirements are waived, in writing, by the County Risk Manager acting as Risk Manager  
7 for RCHC. If the County's Risk Manager waives a requirement for a particular insurer  
8 such waiver is only valid for that specific insurer and only for one policy term.
- 9 2) The CONTRACTOR must declare its insurance self-insured retention for each coverage  
10 required herein. If any such self-insured retention exceed \$500,000 per occurrence each  
11 such retention shall have the prior written consent of the County Risk Manager before the  
12 commencement of operations under this Agreement. Upon notification of self-insured  
13 retention unacceptable to RCHC, and at the election of the Country's Risk Manager,  
14 CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention  
15 as respects this Agreement with RCHC, or 2) procure a bond which guarantees payment of  
16 losses and related investigations, claims administration, and defense costs and expenses.
- 17 3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish RCHC with  
18 either 1) a properly executed original Certificate(s) of Insurance and certified original  
19 copies of Endorsements effecting coverage as required herein, and 2) if requested to do so  
20 orally or in writing by the County Risk Manager, provide original Certified copies of  
21 policies including all Endorsements and all attachments thereto, showing such insurance is  
22 in full force and effect. Further, said Certificate(s) and policies of insurance shall contain  
23 the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to  
24 RCHC prior to any material modification, cancellation, expiration or reduction in coverage  
25 of such insurance. In the event of a material modification, cancellation, expiration, or  
26 reduction in coverage, this CONTRACT shall terminate forthwith, unless RCHC receives,  
27 prior to such effective date, another properly executed original Certificate of Insurance and  
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1 original copies of endorsements or certified original policies, including all endorsements  
2 and attachments thereto evidencing coverage's set forth herein and the insurance required  
3 herein is in full force and effect. *CONTRACTOR shall not commence operations until*  
4 *RCHC has been furnished original Certificate (s) of Insurance and certified original*  
5 *copies of endorsements and if requested, certified original policies of insurance including*  
6 *all endorsements and any and all other attachments as required in this Section, showing*  
7 *that such insurance is in full force and effect. An individual authorized by the insurance*  
8 *carrier to do so on its behalf shall sign the original endorsements for each policy and the*  
9 *Certificate of Insurance.*4) It is understood and agreed to by the parties hereto that the  
10 CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S  
11 insurance and/or deductibles and/or self-insured retention's or self-insured programs shall  
12 not be construed as contributory.

13 5) If, during the term of this CONTRACT or any extension thereof, there is a material change  
14 in the scope of services; or, there is a material change in the equipment to be used in the  
15 performance of the scope of work; or, the term of this CONTRACT, including any  
16 extensions thereof, exceeds five (5) years; RCHC reserves the right to adjust the types of  
17 insurance and the monetary limits of liability required under this Construction Agreement,  
18 if in the County Risk Manager's reasonable judgment, the amount or type of insurance  
19 carried by the CONTRACTOR has become inadequate.

20 6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of  
21 subcontractors working under this CONTRACT.

22 7) The insurance requirements contained in this CONTRACT may be met with a program(s)  
23 of self-insurance acceptable to RCHC.

24 8) CONTRACTOR agrees to notify RCHC of any claim by a third party or any incident or  
25 event that may give rise to a claim arising from this CONTRACT.

26 **ARTICLE 8**

27 **PROJECT CLOSEOUT**

28

1 8.1 Prior to occupancy of any dwelling unit, building, or completion of the PROJECT, RCHC shall  
2 receive a certificate from CONTRACTOR that such portion of the PROJECT is ready for occupancy or  
3 use, and shall cause a Notice of Completion to be issued. A Notice of Completion shall be issued only  
4 when the WORK, including all phases thereof, is finally completed, and all requirements of this  
5 CONTRACT have been satisfied. RCHC shall cause the Notice of Completion to be recorded in the office  
6 of the County Recorder.

7 8.2 In addition to all other requirements, a Notice of Completion shall be issued only when RCHC has  
8 received the following:

9 1. A Certificate of Completion executed by RCHC.

10 2. All guarantees and warranties issued by the manufacturers or installers of appliances or  
11 other component parts of the WORK. CONTRACTOR guarantees that the equipment, materials, and  
12 workmanship, not otherwise covered by a guarantee or warranty, will be free from defects in materials  
13 and workmanship for a period of one year following final acceptance of the project.

14 3. The waiver and release of all liens, claims of liens, or stop notice rights of the  
15 CONTRACTOR and all subcontractors, and the CONTRACTORS' Certificate and Release.

16 4. Verification from RCHC that CONTRACTOR has removed all waste materials, rubbish,  
17 tools, construction equipment, machinery, and surplus materials from PROJECT site. If the  
18 CONTRACTOR has failed to remove any such items, RCHC may remove such items, and the  
19 CONTRACTOR shall pay RCHC for all costs incurred in connection with such removal.

20 8.3 After recordation of the Notice of Completion, and expiration of the thirty (30) days period for  
21 filing of stop notices, RCHC shall settle all claims and disputes, notify the CONTRACTOR of final  
22 acceptance of the PROJECT and make the final 5% retention payment, less any amounts which RCHC is  
23 entitled to receive from the CONTRACTOR under the terms of this Construction Contract , including  
24 liquidated damages.

25 **ARTICLE 9**

26 **APPLICABLE LAWS AND REGULATIONS**

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1 9.1 24 CFR 85.36 (i), Procurement: Pursuant to this CFR as issued by the Office of the Secretary,  
2 HUD, RCHC and the Contractor each agree to comply with the following provisions:

3 9.1.1 Executive Order 11246.

4 For all construction contracts awarded in excess of \$10,000, CONTRACTOR hereby agrees to comply  
5 with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as  
6 amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor  
7 Regulations (41 CFR Chapter 60).

8 9.1.2 Copeland "Anti-Kickback Act"

9 For all construction or repair contracts awarded, CONTRACTOR hereby agrees to comply with the  
10 Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29  
11 CFR Part 3).

12 9.1.3 Davis-Bacon Act

13 For all construction contracts in excess of \$2,000, when required by Federal Grant Program legislation,  
14 CONTRACTOR hereby agrees to comply with the Davis-Bacon Act (40 U.S.C, 276a to 276a-7) as  
15 supplemented in Department of Labor Regulations (29 CFR Part 5). A prevailing wage rate including  
16 basic hourly rate and any fringe benefits) determined under State law shall be inapplicable to a contract or  
17 RCHC performed work item for the development, maintenance, and modernization of a project (24 CFR  
18 Part 965.101).

19 9.1.4 Contract Work Hours and Safety Standards Act Sections 103 and 107

20 For all construction contracts awarded by RCHC in excess of \$2,000, and for other contracts which  
21 involve the employment of mechanics or laborers awarded in excess of \$2,500, CONTRACTOR agrees to  
22 comply with Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as  
23 supplemented in Department of Labor Regulations (29 CFR Part 5).

24 9.1.5 Clean Air Act.

25 For all contracts in excess of \$100,000, the CONTRACTOR hereby agrees to comply with all applicable  
26 standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h),  
27  
28

1 Section 508 of the Clean Water Act (33 U.S. C. 1368), Executive Order 11738, and Environmental  
2 Protection Agency regulations (40 CFR 15).

3 9.1.6 Energy Policy and Conservation Act.

4 The CONTRACTOR hereby agrees to comply with all mandatory standards and policies relating to  
5 energy efficiency, which are contained in the state energy conservation plan issued in compliance with the  
6 Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 781).

7 9.1.7 Labor Code Section 1861 Certification

8 By signing CONTRACT below, CONTRACTOR certifies that s/he/it is aware of the provisions of  
9 Section 3700 of the California Labor Code which require every employer to be insured against liability  
10 for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the  
11 California Labor Code, and that s/he/it will comply with such provisions before commencing the  
12 performance of the Work.

13 9.1.8 Government Standards.

14 It is the responsibility of the CONTRACTOR to ensure that all items and services provided conform to all  
15 local, State and Federal law concerning safety (CalOSHA) and environmental control (EPA and  
16 California Pollution Regulations) and any other enacted ordinance, code, law or regulation. The  
17 CONTRACTOR shall be responsible for all costs incurred for compliance with any such possible  
18 ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given  
19 to the CONTRACTOR for time or monies lost due to violations of any such ordinance, code, law or  
20 regulations that may occur.

21 **ARTICLE 10**

22 **ADDITIONAL FEDERALLY REQUIRED ORDERS/ASSURANCES**

23 10.1 CONTRACTOR agrees that s/he/it will comply with the following orders and directives, and  
24 makes the following assurances, where applicable:

25 10.1.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action  
26 which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.

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1           10.1.2 Title VI of the Civil Rights Act of 1964 (Public Law 88-352) provides that no person in the  
2 United States shall, on the basis of race, color, national origin or sex, be excluded from participation in,  
3 denied the benefits of, or subjected to, discrimination under any program or activity which receives  
4 federal financial assistance. RCHC hereby extends this requirement to CONTRACTOR and its  
5 subcontractors and consultants. Specific prohibited discriminatory actions and corrective action are  
6 described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et.  
7 seq.).

8           10.1.3 Title VIII of the Civil Rights Act of 1968 (Public Law 90-824), popularly known as the  
9 Fair Housing Act, provides for fair housing throughout the United States and prohibits any person from  
10 discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage  
11 services, including in any way making unavailable or denying a dwelling to any person because of race,  
12 color, religion, sex or national origin. Pursuant to this statute, RCHC requires that CONTRACTOR  
13 administer all programs and activities, which are related to housing and community development, in such  
14 a manner as affirmatively to further fair housing.

15           10.1.4 Age Discrimination Act of 1975.

16           10.1.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).

17           10.1.6 HUD Information Bulletin 909-23 which is the Notice of Assistance Regarding Patent and  
18 Copyright Infringement; Clean Air and Water Certification; and Energy Policy and Conversation Act.

19           10.1.7 That the funds provided by RCHC and HUD hereunder shall not be used, directly or  
20 indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or  
21 ineligible contractor.

22           10.1.8 That none of the personnel who are employed in the administration of the WORK required  
23 by this CONTRACT shall, in any way or to any extent, be engaged in conduct of political activities in  
24 violation of Title V, Chapter 15, of the United States Code.

25           10.3 The mention herein of any statute or Executive Order is not intended as an indication that such  
26 statute or Executive Order is necessarily applicable, nor is the failure to mention any statute or Executive  
27 Order intended as an indication that such statute or Executive Order is not applicable. Therefore, each  
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1 provision of law and each clause, which is required by law to be inserted n this CONTRACT, shall be  
2 deemed to have been inserted herein, and this CONTRACT shall be read and enforced as though such  
3 provision or clause had been physically inserted herein. If, through mistake or otherwise, any such  
4 provision is not inserted or is inserted incorrectly, this CONTRACT shall forthwith be physically  
5 amended to make such insertion or correction upon the application of either part.

## 6 **ARTICLE 11**

### 7 **HUD SECTION 3 REQUIREMENTS**

8 11.1 As detailed within 24 CFR 135.38, Section 3 clause, the following required clauses are hereby  
9 included as a part of this CONTRACT.

10 11.1.1 The work to be performed under this CONTRACT is subject to the requirements of section  
11 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S. C. 1701u (Section 3). The  
12 purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD  
13 assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed  
14 to low- and very low-income persons, particularly persons who are recipients of HUD assistance.

15 11.1.2 CONTRACTOR agrees to comply with HUD's regulations in 24 CFR Part 135, which  
16 implement Section 3. As evidenced by the execution of this CONTRACT, CONTRACTOR certifies that  
17 s/he/it is under no contractual or other impediment that would prevent her/him/it from complying with the  
18 Part 135 regulations.

19 11.1.3 CONTRACTOR agrees to send to each labor organization or representative of workers  
20 with which the CONTRACTOR has a collective bargaining agreement or other understanding, if any, a  
21 notice advising the labor organization or workers' representative of the CONTRACTOR'S commitments  
22 under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where  
23 both employees and applicants for training and employment positions can see the notice. The notice shall  
24 describe the Section 3 preference, shall set forth minimum number and job titles for each; and the name  
25 and location of the person(s) taking applications for each of the positions; and the anticipated date the  
26 work shall being.

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1 11.1.4 CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to  
2 compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provide in an  
3 applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is  
4 in violation of the regulations in 24 CFR Part 135. CONTRACTOR will not subcontract with any  
5 subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found  
6 in violation of the regulations in 24 CFR Part 135.

7 11.1.5 CONTRACTOR certifies that any vacant employment positions, including training  
8 positions, that are filled (1) after CONTRACTOR is selected but before the contract is executed, and (2)  
9 with persons other than those to whom the regulations of 24 CFR Part 135 require employment  
10 opportunities to be directed, were not filled to circumvent the CONTRACTOR'S obligations under 24  
11 CFR Part 135.

12 11.1.6 Noncompliance with HUD's regulations in 24 CFR Part 125 may result in sanctions,  
13 termination of this CONTRACT for default, and debarment or suspension from future HUD assisted  
14 contracts.

15 11.1.7 With respect work performed in connection with Section 3 covered Indian Housing  
16 assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e)  
17 also applies to the work to be performed under this CONTRACT. Section 7(b) requires that to the  
18 greatest extent feasible, (i) preference and opportunities for training and employment shall be given to  
19 Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian  
20 organizations and Indian-owned Economic Enterprises. Parties to this CONTRACT that are subject to the  
21 provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible,  
22 but not in derogation of compliance with section 7(b).

## 23 **ARTICLE 12**

### 24 **BREACH AND TERMINATION**

25 12.1 Waiver by RCHC of any breach of this CONTRACT shall not constitute a waiver of any other  
26 breach or of any future breach. No payment made hereunder shall be construed to be an acceptance of  
27 defective work or improper materials.  
28

1 12.2 Termination for Default (Cause) or Convenience as detailed in HUD 5370 General Conditions  
2 Clause 32 and 34.

3 12.3 In addition to any right of termination reserved to RCHC by Clause 32 or 34 of HUD 5370  
4 General Conditions, RCHC may terminate this CONTRACT if the CONTRACTOR is adjudged  
5 bankrupt, a receiver is appointed because of the CONTRACTOR'S insolvency, or the CONTRACTOR  
6 makes a general assignment for the benefit of his/her creditors, fails to make prompt payment to  
7 subcontractor(s), or for material or labor, persistently disregards laws, ordinances, rules, regulations or  
8 orders of any public authority having jurisdiction, fails to construct the PROJECT in accordance with the  
9 Drawings and Specifications, or otherwise substantially violates any provision of the Contract  
10 Documents.

11 12.3 RCHC shall give the CONTRACTOR and his surety five (5) days written notice prior to  
12 terminating this CONTRACT pursuant to this section, provided however, that the CONTRACTOR shall,  
13 upon receipt of such notice, immediately stop the installation of improvements or other permanent  
14 construction work encompassing part of the PROJECT. Upon termination, RCHC may take possession of  
15 the PROJECT and all materials, equipment, tools and construction equipment and machinery owned by  
16 the CONTRACTOR and located at the PROJECT site and may finish the PROJECT by whatever method  
17 it may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further  
18 payment under this CONTRACT.

19 12.4 RCHC shall not be deemed to have waived any of its other rights or remedies against the  
20 CONTRACTOR by exercising its right of termination under this section.

21 12.5 Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a  
22 right or rights provided for by this CONTRACT shall be tried in a court of competent jurisdiction in the  
23 County of Riverside, State of California, and the parties hereby waive all provisions of law providing for  
24 a change of venue in such proceedings to any other county.

25 **ARTICLE 13**

26 **MISCELLANEOUS PROVISIONS**

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1 13.1 CONTRACTOR shall give all notices and comply with all laws, rules, regulations, ordinances and  
2 orders of any governmental entity relating to the Work. Should CONTRACTOR become aware that any  
3 provisions of this CONTRACT are at variance with any such rule, law, regulation, ordinance or order,  
4 he/she shall promptly give notice in writing to RCHC of such variance.

5 13.2 The Contracting Officer, as defined in the General Conditions, must be notified in writing by the  
6 CONTRACTOR within ten (10) days of any and all backordered materials and/or any incomplete  
7 services, and the estimated delivery date. Unless otherwise stipulated in the Contract Documents, any  
8 order that will take more than a maximum of ten (10) days past the original agreed upon delivery date,  
9 may at the option of RCHC, be canceled and ordered from another source, if, in the opinion of the  
10 Contracting Officer, it is in the best interests of RCHC to do so.

11 13.3 It is hereby declared to be the intention of the parties that the sections, paragraphs, sentences,  
12 clauses and phrases of this CONTRACT are severable, and if any phrase, clause, sentence, paragraph or  
13 section of this CONTRACT shall be declared unconstitutional, invalid or unenforceable by the valid  
14 judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or  
15 unenforceability shall not affect any of the remaining clauses, sentences, paragraphs and sections of this  
16 CONTRACT.

17 13.4 In the event of a conflict between the HUD 5370 General Conditions and the Specifications, the  
18 General Conditions shall prevail. In the event of duplication of provisions between the HUD 5370  
19 General Conditions and the Supplemental General Conditions, the most stringent provision shall prevail.  
20 In the event of a conflict between the contract and any applicable state or local law or regulation, the state  
21 or local law or regulation shall prevail; provided that such state or local law or regulation does not conflict  
22 with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of such  
23 a conflict, applicable federal law, regulation, and Executive Order shall prevail.

24 13.5 The persons executing this CONTRACT on behalf of the parties warrant and represent that they  
25 have the authority to execute this CONTRACT on behalf of each respective party and further warrant and  
26 represent that they have the authority to bind each respective party to the performance of its obligation  
27 hereunde

1 **IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized representatives to  
2 execute this Construction Contract this \_\_\_\_ day of \_\_\_\_\_, 2013.

3 (to be filled in by Clerk of the Board)

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5  
6 **Riverside Community Housing Corp.**

**Contractor**

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8 \_\_\_\_\_  
9 John A. Tavaglione, Chairman  
10 Board of Commissioners

\_\_\_\_\_

By:  
Its:  
License #

11  
12 **Attest:**  
13 Kecia Harper-Ihem  
14 Clerk of the Board

15 \_\_\_\_\_  
16 Deputy

17 **Approved As To Form:**  
18 Gregory P. Priamos  
19 County Counsel

20 \_\_\_\_\_  
21 Marsha Victor, Chief Deputy County Counsel  
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**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**ATTACHMENT J**

**“HUD Form 5370”**

**(behind this page)**

# General Conditions for Construction Contracts - Public Housing Programs

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0157 (exp. 1/31/2017)

**Applicability. This form is applicable to any construction/development contract greater than \$100,000.**

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.36, 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 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit.

The information requested does not lend itself to confidentiality.

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.

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## 1. Definitions

- (a) "Architect" means the person or other entity engaged by the PHA to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a PHA uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.
  - (b) "Contract" means the contract entered into between the PHA and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders (form HUD-5370), these General Conditions of the Contract for Construction (form HUD-5370), the applicable wage rate determinations from the U.S. Department of Labor, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.
  - (c) "Contracting Officer" means the person delegated the authority by the PHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the PHA in all dealings with the Contractor.
  - (d) "Contractor" means the person or other entity entering into the contract with the PHA to perform all of the work required under the contract.
  - (e) "Drawings" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.
  - (f) "HUD" means 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. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the PHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the PHA for payment to the Contractor. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.
  - (g) "Project" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.
  - (h) "PHA" means the Public Housing Agency organized under applicable state laws which is a party to this contract.
  - (j) "Specifications" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.
  - (l) "Work" means materials, workmanship, and manufacture and fabrication of components.
- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the PHA pursuant to the clause entitled Availability and Use of Utility Services herein.
  - (b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least [ ] (12 percent unless otherwise indicated) of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the PHA.
  - (c) At all times during performance of this 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 who is satisfactory to the Contracting Officer and has authority to act for the Contractor.
  - (d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.
  - (e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.
  - (f) The Contractor shall confine all operations (including storage of materials) on PHA premises to areas authorized or approved by the Contracting Officer.
  - (g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.
  - (h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

## 3. Architect's Duties, Responsibilities, and Authority

- (a) The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.

## 2. Contractor's Responsibility for Work

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- (b) The Architect shall serve as the Contracting Officer's technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the Changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) changes any of the other express terms or conditions of the contract.
- (c) The Architect's duties and responsibilities may include but shall not be limited to:
- (1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor's designated representative at the site;
  - (2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;
  - (3) Reviewing and making recommendations with respect to - (i) the Contractor's construction progress schedules; (ii) the Contractor's shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor's price breakdown and progress payment estimates; and,
  - (4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

#### 4. Other Contracts

The PHA may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with PHA 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 by PHA employees

### Construction Requirements

#### 5. Pre-construction Conference and Notice to Proceed

- (a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the PHA, its Architect, and other interested parties convened by the PHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The PHA will provide the Contractor with the date, time, and place of the conference.
- (b) The contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

#### 6. Construction Progress Schedule

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). 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. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.
- (b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled Inspection and Acceptance of Construction, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the PHA. In this circumstance, the Contracting Officer 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 the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.
- (c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

#### 7. Site Investigation and Conditions Affecting the Work

- (a) 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, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. 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 the PHA, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the PHA.
- (b) The PHA assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the PHA. Nor does the PHA assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

## 8. Differing Site Conditions

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) 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.
- (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. 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. If the conditions do materially so differ and cause an increase or decrease in the 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 the PHA within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.
- (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.
- (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.
- (b) 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 the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by", or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.
- (c) 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 stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place" that is "furnished and installed".
- (d) "Shop drawings" means drawings, submitted to the PHA by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. 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. The PHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
- (e) 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. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the PHA's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer 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 variations described and approved in accordance with (f) below.
- (f) 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. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer 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.
- (g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

## 9. Specifications and Drawings for Construction

- (a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. 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. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be

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required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

- (h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the PHA and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.
- (i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 10. As-Built Drawings

- (a) "As-built drawings," as used in this clause, 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. "As-built drawings" shall be synonymous with "Record drawings."
- (b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent as-built drawings. 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.
- (c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all as-built drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 11. Material and Workmanship

- (a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. 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. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.
- (b) Approval of equipment and materials.
  - (1) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer 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. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

- (2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's expense, with all shipping charges prepaid. 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.
- (3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.
- (4) Approval of a sample shall not constitute a waiver of the PHA right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.
- (5) 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. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. 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.
- (6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.
- (c) Requirements concerning lead-based paint. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

#### 12. Permits and Codes

- (a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any

waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled Changes herein to conform to the code or regulation.

- (b) The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work. Where the PHA 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.

### 13. Health, Safety, and Accident Prevention

(a) In performing this contract, the Contractor shall:

- (1) 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;
- (2) Protect the lives, health, and safety of other persons;
- (3) Prevent damage to property, materials, supplies, and equipment; and,
- (4) Avoid work interruptions.

(b) For these purposes, the Contractor shall:

- (1) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and
- (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) 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 disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.

(d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. 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. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the PHA, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

### 14. Temporary Heating

The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to the PHA in the condition and at the time required by the specifications.

### 15. Availability and Use of Utility Services

- (a) The PHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. 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 the PHA or, where the utility is produced by the PHA, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.
- (b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, 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. Before final acceptance of the work by the PHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

### 16. 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 site, 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. 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 directed by the Contracting Officer.
- (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. 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 the Contracting Officer, 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. 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 planes 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 the commencement of any work.
- (j) The Contractor shall indemnify and save harmless the PHA from any damages on account of 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 the PHA 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. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

#### **17. Temporary Buildings and Transportation of Materials**

- (a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the PHA. 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. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.
- (b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. 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. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### **18. Clean Air and Water**

The contractor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

#### **19. Energy Efficiency**

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 (Pub.L. 94-163) for the State in which the work under the contract is performed.

#### **20. Inspection and Acceptance of Construction**

- (a) Definitions. As used in this clause -
  - (1) "Acceptance" means the act of an authorized representative of the PHA by which the PHA approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.
  - (2) "Inspection" means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.
  - (3) "Testing" means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.
- (b) 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. All work is subject to PHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) PHA inspections and tests are for the sole benefit of the PHA and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the PHA after acceptance of the completed work under paragraph (j) below.
- (d) The presence or absence of the PHA 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. All instructions and approvals with respect to the work shall be given to the Contractor by the Contracting Officer.
- (e) 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 the Contracting Officer. The PHA 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 reinspection or retest necessary. The PHA 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.

- (f) The PHA may conduct routine inspections of the construction site on a daily basis.
- (g) The Contractor shall, without charge, replace or correct work found by the PHA not to conform to contract requirements, unless the PHA decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (h) If the Contractor does not promptly replace or correct rejected work, the PHA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.
- (i) If any work requiring inspection is covered up without approval of the PHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the PHA 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. 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. 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.
- (j) The Contractor shall notify the Contracting Officer, 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. If the Architect determines that the state of preparedness is as represented, the PHA will promptly arrange for the inspection. Unless otherwise specified in the contract, the PHA shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the PHA's right under any warranty or guarantee.

## 21. Use and Possession Prior to Completion

- (a) The PHA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the PHA intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The PHA's possession or use shall not be deemed an acceptance of any work under the contract.
- (b) While the PHA has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the PHA's possession or use, notwithstanding the terms of the clause entitled Permits and Codes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas

occupied without proper remuneration therefore. If prior possession or use by the PHA delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

## 22. Warranty of Title

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.

## 23. Warranty of Construction

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, 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. This warranty shall continue for a period of \_\_\_\_\_ (one year unless otherwise indicated) from the date of final acceptance of the work. If the PHA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the PHA takes possession.
- (b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—
  - (1) The Contractor's failure to conform to contract requirements; or
  - (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.
- (c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for (one year unless otherwise indicated) from the date of repair or replacement.
- (d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the PHA shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (f) 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:
  - (1) Obtain all warranties that would be given in normal commercial practice;
  - (2) Require all warranties to be executed in writing, for the benefit of the PHA; and,
  - (3) Enforce all warranties for the benefit of the PHA.
- (g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

- (h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the repair of any damage that results from any defect in PHA furnished material or design.
- (i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and (c) above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.
- (j) This warranty shall not limit the PHA's rights under the Inspection and Acceptance of Construction clause of this contract with respect to latent defects, gross mistakes or fraud.

**24. Prohibition Against Liens**

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

**Administrative Requirements**

**25. Contract Period**

The Contractor shall complete all work required on this contract within \_\_\_\_\_ calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the Contracting Officer.

**26. Order of Provisions**

In the event of a conflict between these General Conditions and the Specifications, the General Conditions shall prevail. 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. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

**27. Payments**

- (a) The PHA shall pay the Contractor the price as provided in this contract.
- (b) The PHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The PHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.
- (c) Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Contracting Officer, 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. The breakdown shall be approved by the Contracting Officer and must be acceptable to HUD. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. 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 price. The Contractor shall prorate its overhead and profit over the construction period of the contract.

- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the contract price. Such estimates shall be submitted not later than \_\_\_\_\_ days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.
- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made: I hereby certify, to the best of my knowledge and belief, that:
  - (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
  - (2) 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,
  - (3) 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.

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

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

- (f) Except as otherwise provided in State law, the PHA shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the contract; except, that if upon completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect, determines that the Contractor's performance and progress are satisfactory, the PHA may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor's performance and progress are unsatisfactory, the PHA shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.
- (g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments.

Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that (1) it has acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Contracting Officer; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Contracting Officer may require to assure the protection of the PHA's interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the PHA.

- (h) All material and work covered by progress payments made shall, at the time of payment become the sole property of the PHA, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the PHA to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the PHA in the course of their employment, the Contractor shall restore such damaged work without cost to the PHA and to seek redress for its damage only from those who directly caused it.
- (i) The PHA shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the PHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.
- (j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.
- (k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bonds furnished under this contract.

## 28. Contract Modifications

- (a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or

responsibilities of the parties (e.g., change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

- (c) When a proposed modification requires the approval of HUD prior to its issuance (e.g., a change order that exceeds the PHA's approved threshold), such modification shall not be effective until the required approval is received by the PHA.

## 29. Changes

- (a) The Contracting Officer 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 changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) PHA-furnished facilities, equipment, materials, services, or site; or,
  - (4) Directing the acceleration in the performance of the work.
- (b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.
- (c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (d) If any change under this clause 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, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) 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:

- (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs when size of change warrants revision.
- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change. The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. 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.
- (g) 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.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

### 30. Suspension of Work

- (a) 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 the PHA.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer'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. However, no adjustment shall be made under this clause 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.

- (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 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, (2) 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 not later than the date of final payment under the contract.

### 31. Disputes

- (a) "Claim," as used in this clause, 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, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. 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. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (b) Except for disputes arising under the clauses entitled Labor Standards - Davis Bacon and Related Acts, 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 this clause.
- (c) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (d) The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.
- (f) 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 the Contracting Officer.

### 32. Default

- (a) If 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, the Contracting Officer 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. In this event, the PHA 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. The Contractor and its sureties shall be liable for any damage to the PHA 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. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if—
- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the PHA or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the PHA, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
  - (2) The Contractor, within days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.
- (c) 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 the PHA.

### 33. Liquidated Damages

- (a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to the PHA as liquidated damages, the sum of \$ \_\_\_\_\_ [Contracting Officer insert amount] for each day of delay. If different completion dates are specified in the contract for separate parts or stages of the work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that the Contractor's delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due the PHA. The Contractor remains liable for damages caused other than by delay.
- (b) If the PHA terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final

completion of the work together with any increased costs occasioned the PHA in completing the work.

- (c) If the PHA does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

### 34. Termination for Convenience

- (a) 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 the PHA. 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 such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) 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 the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

### 35. 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 PHA under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. 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 the Contracting Officer.

### 36. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:
- (1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.
  - (2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$ \_\_\_\_\_ [Contracting Officer insert amount]

per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract.

- (3) Automobile Liability 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 \$ \_\_\_\_\_ [Contracting Officer insert amount] per occurrence.
- (b) Before commencing work, the Contractor shall furnish the PHA 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. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. 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. It need not be carried on landscape work. 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 the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.
- (c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. 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 30 days prior written notice has been given to the Contracting Officer.

### 37. Subcontracts

- (a) Definitions. As used in this contract -
- (1) "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

(2) "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Contractor or another subcontractor.

- (b) 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 programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.
- (c) 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.
- (d) 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 to the work of subcontractors.
- (e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the PHA or between the subcontractor and HUD.

### 38. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

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 solicitation lists;
- (b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (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;
- (d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and
- (e) 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.

### 39. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, or handicap. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, 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 this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any 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 litigation to protect the interests of the United States.
- (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.
- 40. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.**
- (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) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

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#### 41. Interest of Members of Congress

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.

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

No member, officer, or employee of the PHA, 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 the PHA 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.

#### 43. Limitations on Payments made to Influence Certain Federal Financial Transactions

- (a) The Contractor agrees to comply with Section 1352 of 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: 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) 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.

#### 44. Royalties and Patents

The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the PHA harmless from loss on account thereof; except that the PHA 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 infringement. If, however, the Contractor has reason to believe that any design, process or product specified is an infringement of a patent, the Contractor shall promptly notify the Contracting Officer. Failure to give such notice shall make the Contractor responsible for resultant loss.

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

- (a) The PHA, 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 (1) appeals under the Disputes clause 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 the PHA, 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.

#### 46. Labor Standards - Davis-Bacon and Related Acts

If the total amount of this contract exceeds \$2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

- (a) Minimum Wages.
  - (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 (29 CFR Part 3)), 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. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of 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 5.5(a)(1)(iv); 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. 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 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall

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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.

- (2) (i) 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. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) 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. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 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.
- (iii) 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. The Administrator, or an authorized representative, will issue a determination within 30 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.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause 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.
- (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.
- (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. 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.

- (b) Withholding of funds. 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. 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. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.
- (c) Payrolls and basic records.
- (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. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), 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 section 1(b)(2)(B) of 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. 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.

- (2) (i) The Contractor shall submit weekly 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. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. 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.)
- (ii) 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 under paragraph (c) (1) of this clause 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 indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; 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 into the contract.
- (iii) 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" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) 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. 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. 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 5.12.

- (d) (1) Apprentices. Apprentices will be permitted to work at less than the 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 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. 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. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. 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. Where a contractor is performing construction on a project in a locality other than that in which its program is 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. 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. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. 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. 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. 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.
- (2) Trainees. Except as provided in 29 CFR 5.16, 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. 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. 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. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. 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. 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. 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. 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 performed until an acceptable program is approved.

- (3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- (e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.
- (f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.
- (i) Certification of eligibility.
  - (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 the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- (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 section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (3) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.
- (j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.
- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, 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 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
  - (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.
  - (3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.
- (k) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, 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. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

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#### 47. Non-Federal Prevailing Wage Rates

- (a) 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:
  - (1) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) 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.

#### 48. 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.



**INVITATION FOR BIDS (IFB) NO. 2017-003  
HVAC REPLACEMENT PROJECT AT EL DORADO GARDEN APARTMENTS**

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**ATTACHMENT K**

**“General Wage Decision Number”**

General Decision Number: CA170028 10/13/2017 CA28

Superseded General Decision Number: CA20160028

State: California

Construction Type: Residential

Counties: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties in California.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the 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 \$10.15 (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 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/06/2017
1	01/20/2017
2	01/27/2017
3	02/17/2017
4	02/24/2017
5	03/10/2017
6	03/31/2017
7	04/07/2017
8	05/12/2017
9	05/26/2017
10	06/02/2017
11	06/09/2017
12	06/30/2017
13	07/07/2017
14	07/14/2017
15	07/28/2017
16	08/04/2017
17	08/11/2017
18	09/08/2017
19	09/29/2017
20	10/13/2017

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**ATTACHMENT L  
DIRECTIONS FOR PREPARATION OF  
PERFORMANCE AND PAYMENT BOND**

1. Individual sureties, partnerships, or corporations not in the surety business will not be acceptable.
2. The name of the Principal shall be shown exactly as it shall appear in the contract.
3. The penal sum shall be not less than that required by the Specifications.
4. If the Principals are partners, or joint ventures, each member shall execute the bond as an individual, with his place of residence shown.
5. If the Principal is a corporation, the bond shall be executed under its corporate seal. If the corporation has no corporate seal, the fact shall be stated, in which case a scroll or adhesive seal shall be affixed following the corporate name.
6. The official character and authority of the person(s) executing the bond for the principal, if a corporation, shall be certified by the secretary or assistant secretary thereof under the corporate seal, or there may be attached copies of so much of the records of the corporation as will evidence the official character and authority of the signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.
7. The current power-of-attorney of the person signing for the surety company must be attached to the bond.
8. The date of the bond must not be prior to the date of the notice of award.
9. The following information must be placed on the bond by the surety company:
  - a. The rate of premium in dollars per thousand; and
  - b. The total dollar amount of premium charged.
10. The signature of a witness shall appear in the appropriate place, attesting to the signature of each party to the bond.
11. Type or print the name underneath each signature appearing on the bond.
12. An executed copy of the bond must be attached to each copy of the contract (original counterpart) intended for signing.
  - a. Subsequent to the Notice of Intent to Award and within 10 days after the prescribed forms are presented for signature, the successful bidder shall execute and deliver to the Owner a contract in the form included in the specifications in such number of counterparts as the Owner may require. Separate contract forms, in lieu of those found in the Specifications, shall be used for the purpose.

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- b. On each such bond, the rate of premium shall be stated, together with the total amount of the premium charged. The current power-of-attorney for the person who signs for any surety company shall be attached to each bond.
  
- c. The failure of the successful bidder to execute such contract and to supply the required bonds within ten (10) days after the prescribed forms are presented for signature, or within such extended period as the Owner may designate, shall constitute a default, and the Owner may either award the contract to the next responsible bidder or re-advertise for bids, and may charge against the bidder the difference between the amount of the bid and the amount for which a contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the bid guaranty.

Bonding assistance to small construction contractors is authorized by Section 911 of the Housing and Urban Development Act of 1970. The Act authorizes the Small Business Administration to provide a 90% guarantee on contracts of \$1,000,000 or below to any surety company which will provide bid, payment, or performance bonds to the small construction contractor. This "Bonding Assistance" will help the small construction contractor obtain bonding, but will not affect bonding rates. The Contractor will pay 100% of the bonding costs for the amount bid. No contract will be executed without the required bonding. The cost of the performance and payment bonds shall be included in the bid price.

*These Directions are for the general guidance of the bidder/contractor and are not all-inclusive. It is the responsibility of the bidder/contractor to be familiar with all the bidding and contract requirements and the filling out of their documents.*

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