



The following forms are attached and are part of the Request for Proposals Contract Documents. Please note that NHA 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 part of this RFP.

A	Form of Proposal
B	Form HUD-5369-C (8/93), <i>Certifications and Representations of Offerors, Non-Construction Contract</i>
C	Profile of Firm Form
D	Section 3 Explanation
E	Form HUD-5369-B (8/93), <i>Instructions to Offerors, Non-Construction</i>
F	<i>Supplemental Instructions To Proposers & Contractors (SIPC)</i>
G	Sample Contract Form (please note that this contract and the listed appendices are being given as a sample only—the Agency reserves the right to revise any clause herein and/or to include within the ensuing contract any additional clauses that the Agency feels it is in its best interests to do so)
G-1	Sample Contract Appendix No. 1: form HUD-5370-C (01/2014), <i>General Conditions for Non-Construction Contracts Section I (With or without Maintenance Work)</i>
G-2	Sample Contract Appendix No. 2: form HUD 50071 (01/14), <i>Certification of Payments to Influence Federal Transactions</i> (NOTE: This form will only be completed and included as a part of the ensuing contract if the Agency anticipates that total awards pursuant to the ensuing contract may or will exceed \$100,000.)
G-3	Sample Contract Appendix No. 3: Standard Form LLL (Rev. 01/14), <i>Disclosure of Lobbying Activities</i> (NOTE: This form will only be completed and included as a part of the ensuing contract if the Contractor designates an affirmative answer to Item No. (2) within the immediate identified form 50071.)
H	Agency Profile of Properties

**REQUEST FOR PROPOSALS (RFP) No. 2026-03,
Strategic Planning Services**

**FORM OF PROPOSAL
(RFP Attachment A)**

(This Form must be fully completed and placed under Tab No. 1 of the proposal submittal.)

(1) Instructions. Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the "hard copy" proposal submittal submitted by the proposer.

[Table No. 1]

"X" = Item Included	Tab No.	Submittal Item (One original signature copy of each document, plus two exact copies)
	1	Form of Proposal (Attachment A)
	2	Form HUD-5369-C (Attachment B)
	3	Profile of Firm Form (Attachment C)
	4	Proposed Services
	5	Managerial Capacity/Financial Viability, including resumes
	6	Client Information
	7	Proposal Cost Form
	8	Subcontractor/Joint Venture Information (Optional)
	9	Other Information (Optional)

(2) Debarred Statement. Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of South Carolina, or any local government agency within or without the State of South Carolina? Yes No If "Yes," please attach a full detailed explanation, including dates, circumstances, and the current status.

(3) Disclosure Statement. Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the Agency? Yes No If "Yes," please attach a full detailed explanation, including dates, circumstances, and current status.

(4) Felony Disclosure. Has any principal(s) or any person(s) proposed to perform the work ever been convicted of a felony? Yes No If "Yes," please attach a full detailed explanation, including dates, circumstances, and current status. PLEASE NOTE: The Agency reserves the right to not make an award to any proposer that has staff who has been convicted of a felony if the Agency feels that doing such is in its best interests.

Signature Date Printed Name Company

REQUEST FOR PROPOSALS (RFP) No. 2026-03,
Strategic Planning Services

FORM OF PROPOSAL
(RFP Attachment A)

(This Form must be fully completed and placed under Tab No. 1 of the proposal submittal.)

(5) Non-Collusive Affidavit. The undersigned party submitting this proposal hereby certifies that such proposal is genuine and not collusive and that said proposer entity has not colluded, conspired, connived or agreed, directly or indirectly, with any proposer or person, to put in a sham proposal or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other proposer, to fix overhead, profit or cost element of said proposal price, or that of any other proposer or to secure any advantage against the Agency or any person interested in the proposed contract; and that all statements in said proposal are true.

(6) Proposer's Statement. The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this proposal 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 Agency discovers that any information entered herein to be false, such shall entitle the Agency to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, and/or by entering and submitting the costs, where provided for including within the eProcurement Marketplace, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the Agency, either in hard copy or on the eProcurement Marketplace, including an agreement to execute the attached Sample Contract form. Pursuant to all RFP Documents, this Form of Proposal, and all attachments, and pursuant to all completed Documents submitted, including these forms and all attachments, the undersigned proposes to supply the Agency with the services described herein for the fee(s) entered within the areas provided included within the eProcurement Marketplace pertaining to this RFP.

Signature

Date

Printed Name

Company

NEWBERRY HOUSING AUTHORITY, SC

PROPOSAL COMPENSATION FORM

REQUEST FOR PROPOSALS

RFP NO. 2026-03

STRATEGIC PLANNING SERVICES

(Return with Proposal-page 1 of 2)

In compliance with the above, the undersigned offers and agrees, if the proposal is accepted within 60 days from the date of the proposal deadline, to furnish all of the items upon which prices are quoted, at the price set forth, delivery at the designated point and within the time specified in the contract.

RFP Section	Pricing Item No.	Qty	U/M	Description	Fixed Rate
3.2.2.1	Strategic Planning Services				
3.2.2.1.1	1	1	Each	Firm Fixed Fee	\$
3.2.2.1.2	2	1	Hours	Hourly fees on additional services outside the RFP Scope of Services	\$

NAME OF COMPANY: _____

POINT OF CONTACT: _____

ADDRESS: _____

CITY: _____

STATE & ZIP CODE: _____

PHONE NO: _____ FAX NO: _____

EMAIL: _____

SIGNATURE OF PERSON AUTHORIZED TO SIGN PROPOSAL

DATE

PRINT NAME _____

REQUEST FOR PROPOSALS
RFP NO. 2026-03
STRATEGIC PLANNING SERVICES
(Return with Proposal-page 2 of 2)

In compliance with the proposal documents, the undersigned, in making this proposal, represents the following:

(Contractor is to initial each line item to certify agreement)

Proposer's Initials

- _____ 1. Contractor has read and understands the proposal documents, and Contractor's proposal is made in accordance therewith;
- _____ 2. Contractor has reviewed the Scope of Services/Technical Specifications and Contract for **Strategic Planning** services prepared by NHA and understands that it will apply to this project and his/her proposal is made in accordance therewith;
- _____ 3. Contractor has had the opportunity to visit the site, has familiarized himself/herself with the local conditions under which the work is to be performed and has correlated his/her observations with the requirements of the proposal documents *(if applicable)*;
- _____ 4. Contractor has included in their proposal the cost of all labor, materials, and items required for the proper execution and completion of the work.
- _____ 5. Contractor's proposal is based upon the materials, system and equipment required by the Proposal documents without exception;
- _____ 6. Contractor is licensed and qualified under the laws of the City of Newberry, and/or the State of South Carolina to perform the quantity and type of work shown on the RFP, Scope of Services/Technical Specifications. *(if applicable)*

List of Acknowledged Addenda *(if no addenda published, leave blank)*

No. _____ dated _____

No. _____ dated _____

No. _____ dated _____

No. _____ dated _____

The Undersigned Proposer agrees to the following:

- This proposal will not be modified, withdrawn, or canceled during the (60) day period following the time and date designed for the receipt of the proposal.
- NHA reserves the right to reject and or all proposals and waive any informality in the proposal process.
- The undersigned certifies that he/she is authorized to execute contracts on behalf of the proposer as legally names, that the proposal is submitted in good faith without fraud or collusion with any other proposer, that the information indicated in the document is true and complete, and that the proposal is made in full accord with State Law.

Certifications and Representations of Offerors

Non-Construction Contract

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offers to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. 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.

1. Contingent Fee Representation and Agreement

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

- (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.

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

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

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

The bidder/offeror 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 small business concern. "Women-owned," as used in this provision, means a small 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 enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned 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)

- | | |
|---|---|
| <input type="checkbox"/> Black Americans | <input type="checkbox"/> Asian Pacific Americans |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans |
| <input type="checkbox"/> Native Americans | <input type="checkbox"/> Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

- (1) Is the person in the bidder/offeror'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/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror'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/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

4. Organizational Conflicts of Interest Certification

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

**PROFILE OF FIRM FORM
(RFP Attachment C)**

(This Form must be fully completed and submitted to the Agency when notified to do so by the Agency after the submittal deadline.)

(1) PRIME CONTRACTOR _____ SUB-CONTRACTOR _____ (This form must be completed by and for each).

(2) Name of Firm: _____

Telephone: _____ Fax: _____

Mobile: (if applicable) _____ Email: _____

Email: _____

(3) Street Address: _____

City: _____ State: _____ Zip: _____

(4) Please attach a brief biography/resume of the company, including the following information:
 (a) Year Firm Established; (b) Year Firm Established in South Carolina; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).

(5) Identify Principals/Partners in Firm: (submit under Tab No. 5 a brief professional resume for each):

NAME	TITLE	% OF OWNERSHIP

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on projects: please submit under Tab No. 5 a brief resume for each. (Do not duplicate any resumes required above):

NAME	TITLE

**PROFILE OF FIRM FORM
(RFP Attachment C)**

(This Form must be fully completed and submitted to the Agency when notified to do so by the Agency after the submittal deadline.)

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

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Caucasian
American (Male)
_____% | <input type="checkbox"/> Public-Held
Corporation
_____% | <input type="checkbox"/> Government
Agency
_____% | <input type="checkbox"/> Non-Profit
Organization
_____% |
|---|---|---|---|

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

- | | | | | | |
|---|---|--|---|--|---|
| <input type="checkbox"/> Resident-
Owned
_____% | <input type="checkbox"/> African
American
_____% | <input type="checkbox"/> Native
American
_____% | <input type="checkbox"/> Hispanic
American
_____% | <input type="checkbox"/> Asian/Pacific
American
_____% | <input type="checkbox"/> Asian/Indian
American
_____% |
| <input type="checkbox"/> Woman-Owned
(MBE)
_____% | <input type="checkbox"/> Woman-Owned
(Caucasian)
_____% | <input type="checkbox"/> Disabled
Veteran
_____% | <input type="checkbox"/> Other
(Specify)
_____% | | |

WMBE Certification Number (if applicable) _____

Certified by: _____
(NOTE: A CERTIFICATION / NUMBER NOT REQUIRED TO PROPOSE - ENTER IF AVAILABLE)

(8) Federal Tax ID No. _____

(9) DUNNS No. _____

(10) South Carolina Business License Information:

- General Contractor's License No. (if applicable) _____
- City of Newberry Business License No. _____

(11) State of _____ License Type and No.: _____

- City of _____ License Type and No.: _____

(12) General Liability Insurance Carrier: _____

Policy No. _____ Expiration Date _____

(13) Worker's Compensation Insurance Carrier: _____

Policy No. _____ Expiration Date _____

(14) Professional Liability Insurance Carrier: _____

Policy No. _____ Expiration Date _____

Print Name _____ Signature: _____

Company _____ Date _____

Section 3 Business Preference Explanation (RFP Attachment D)

Be aware that the Agency previously conducted RFP's that required proposers and contractors to comply with the requirements of 24 CFR §135, *Economic Opportunities for Low- and Very Low-Income Persons* (a.k.a., Section 3).

However, earlier this year the U.S. Department of Housing and Urban Development (HUD) discontinued these former requirements and implemented the requirements of 24 CFR §5, 14, 75, 91, 92, 93, 135, 266, 570, 574, 576, 578, 905, 964, 983, and 1000, entitled *Enhancing and Streamlining the implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses*.

Accordingly, these new Section 3 regulations do not provide for a firm proposing to provide services to a housing agency to immediately submit any information pertaining to Section 3, including the new regulations do not provide for the granting of any preferences to Section 3 firms submitting proposals. The Agency will advise all firms if these requirements change.

NOTE: Please see attached to this RFP, Attachment G-11, Section 3 Contract Information, which the successful proposer will be required to execute and abide by.



The Housing Authority of the City of Newberry, SC (Newberry Housing Authority)
3589 Grant Avenue, Newberry, SC. 29108 - O: (803) 768-8371

SECTION 3 POLICY, PROCEDURES AND COMPLIANCE FORMS WITH INSTRUCTIONS

This packet is designed to comply with the New HUD Section 3 Final Rule issued September 29, 2020, and became effective November 30, 2020. Therefore, these documents and instructions are related to the "Hours Worked Benchmarks" as called for in the 24 CFR Part 75 regulation. Every contractor and sub-contractor (with the exception of professional services) are required to work toward meeting the prescribed benchmarks as indicated on the bottom of page 6 of this packet. There are no specific hiring or contracting goals under this new rule.

Most importantly, the rule does not require the hiring or contracting of any person or business that is not fully qualified to perform the work as would be charged. However, the rule makes clear that HUD is intent on ensuring Section 3 persons employed under the new rule receive measurable and sustainable employment. Therefore, Section 3 employees can be counted for up to five full years from the date of certification or hire, respectively. HUD is expected to issue continued guidance on the new rule in the future so these documents may change in accordance with the rule.

If you should have any questions on this packet, please contact:

Jessica M. Holcomb, Executive Director
Email: jholcomb@newberryhousing.org

Governing Parts of the Section 3 Final Rule to this Recipient

Subpart A—General Provisions

- § 75.1 Purpose
- § 75.3 Applicability
- § 75.5 Definitions

Subpart B—Additional Provisions for Public Housing Financial Assistance

75.9 Requirements.

75.11 Targeted Section 3 worker for public housing financial assistance. 75.13 Section 3 safe harbor.

75.15 Reporting.

75.17 Contract provisions.

Subpart D—Provisions for Multiple Funding Sources, Recordkeeping and Compliance

75.29 Multiple funding sources. 75.31 Recordkeeping

75.33 Compliance

SECTION 3 REQUIREMENTS

Applicable to all contracts and agreements regardless of the dollar amount or contract duration

Background - Section 3 of the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968) (Section 3) was enacted to bring economic opportunities generated by certain HUD financial assistance expenditures, to the greatest extent feasible, to low- and very low-income persons residing in communities where the financial assistance is expended. Section 3 recognizes that HUD funds are often one of the largest sources of Federal funds expended in low- and very low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the dual benefit of creating new or rehabilitated housing and other facilities while providing opportunities for employment and training for the residents of these communities.

The Section 3 statute establishes priorities for employment and contracting for public housing programs and for other programs that provide housing and community development assistance. For example, the prioritization as it relates to public housing assistance places an emphasis on public housing residents, in contrast to the prioritization as it relates to housing and community development assistance, which places more emphasis on residents of the neighborhood or service area in which the investment is being made.

[Continues Next Page](#)

Decatur Housing Authority Internal Hiring Procedure

The state of Alabama has a restriction on the use of prior salary or compensation information and the requesting of such information relating to employment. That law is referenced below, and that language may cause or create a conflict with the requirements of Section 3 to certify that a person hired is actually Section 3, what category of Section 3 they are, or are not Section 3 at all. The Benchmarks (referenced on page 8 below) will be very difficult, if not impossible, to attain if the prior salary information is not available in all cases. Certainly, a more unreasonable burden will be placed upon this HUD funds recipient as a direct result of this state law. So, to the extent where it is deemed unlawful for the Decatur Housing Authority or its contractors to qualify a person for employment, training, or contracting because their prior employment salary history cannot be learned or considered for certification, the overall agency compliance will be less than prescribed by the HUD benchmarks. Only if the new employees' new annualized income meets the 80% low-income threshold for being considered Section 3, will any compliance be requested of new hires, trainees, or contractors.

HB225 - This act shall be known as the Clarke-Figures Equal Pay Act.

ENROLLED, An Act, Relating to wages; to prohibit an employer from paying any of its employees at wage rates less than those paid to employees of another sex or race for equal work unless a wage differential is based upon one or more specified factors. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

(b) An employer shall not refuse to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant does not provide wage history. Wage history means the wages paid to an applicant for employment by the applicant's current or former employer.

Read the full Act: <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2019RS/PrintFiles/HB225-enr.pdf>

Decatur Housing Authority Contracting Procedure

For all advertised contracts let by the authority, the responsible staff will include the Section 3 Business Self Certification form and the Section 3 Individual Low-Income Self Certification form (with no income limit area) with the bid package (virtually and paper) allowing each respondent to identify themselves and their business accordingly. The completion of the forms will remain voluntary and at the respondents' discretion.

Once all responses have been received and reviewed, the most desirous and qualified business will be progressed through the contracting process. The Section 3 status of the respondent will be considered only after the "Most Qualified and Advantageous" respondent has been determined. Please note that due to that conflict with Alabama State Law HB225 - This act shall be known as the Clarke-Figures Equal Pay Act, there will be an area for contractors to confirm they meet any HUD income limit for Section 3 business owners for persons working for Section 3 business owners. So again, meeting the Section 3 Business Concern definition will be difficult to impossible, though we still encourage contractors to recruit, train, and hire as many DHAL residents and voucher holders as possible. At a minimum, contractors should provide notice to the Section 3 coordinator so some outreach can be executed for any created or available employment opportunities.

If there are multiple and equally qualified businesses, the Section 3 status and category of the business will be considered. The business with the highest Section 3 priority, based on the 24CFR Part 75.9 (b)(2) will be awarded the contract. All other applicable procurement laws will be adhered to relative to contracting amounts. All advertisements for contracts with the authority will carry this wording: "This opportunity is covered under Section 3 of the HUD Act of 1968"

Decatur Housing Authority Internal Resident Training Procedure

For all resident training offered by the authority and its contractors, the staff will include the Section 3 Individual Low-Income Person Self Certification form with the training notice or, upon the first day of training (virtually and paper), allowing each prospective trainee to identify themselves accordingly as public housing or Section 8. The completion of the form will NOT be voluntary as the prospective trainees will be allowed to attend based on their prioritization in the 24CFR Part 75.9(a)(2).

If the training is being paid for with HUD Public Housing financial assistance, the training will be limited to authority residents and potentially voucher holders only.

All advertisements for training with the authority will carry this wording: "This opportunity is covered under Section 3 of the HUD Act of 1968."

§ 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

§ 75.3 Applicability.

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

§ 75.5 Definitions.

The terms HUD, Public housing, Public Housing Agency (PHA), and are defined in 24 CFR part 5. The also apply to this part: 1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq. Contractor means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in § 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

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:

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three- month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Public housing project

Section 3 project means a project defined in § 75.3(a)(2).

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a Youth Build participant.

Section 3 worker means:

Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a Youth Build participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service Area or the Neighborhood of the project This definition

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Sub-recipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in § 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

Youth Build programs refers to Youth Build programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

[Continues Next Page](#)

§ 75.9 Requirements - (a) Employment and Training.

(1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

(2) PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

- (i) To residents of the public housing projects for which the public housing financial assistance is expended;
- (ii) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- (iii) To participants in Youth Build programs; and
- (iv) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(b) Contracting. (1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

- (i) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
- (ii) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
- (iii) To Youth Build programs; and
- (iv) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

§ 75.11 Targeted Section 3 worker for Public Housing Financial Assistance.

(a) Targeted Section 3 worker. A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) A resident of public housing or Section 8-assisted housing;

(ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or

(iii) A Youth Build participant.

§ 75.13 Section 3 Safe Harbor. *(See Benchmarks at the bottom of page 10)*

(a) General. Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

(1) Certify that they have followed the prioritization of effort in § 75.9; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

§ 75.15 Reporting. *(See Benchmarks at the bottom of page 10)*

(a) Reporting of labor hours. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

- (i) The total number of labor hours worked;
- (ii) The total number of labor hours worked by Section 3 workers; and
- (iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the PHA, other recipient, contractor, or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) Additional reporting if Section 3 benchmarks are not met.

If the PHA's or other recipient's reporting under paragraph (a) of this section indicates that the PHA or other recipient has not met the Section 3 benchmarks described in § 75.13, the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:

- (1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- (2) Provided training or apprenticeship opportunities.
- (3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- (4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- (5) Held one or more job fairs.
- (6) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- (7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- (8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- (9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- (10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- (11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- (12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- (13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

§ 75.15 Continued - (b) Additional reporting if Section 3 benchmarks are not met.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) Reporting frequency. Unless otherwise provided, PHAs or other recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

(d) Reporting by Small PHAs. Small PHAs may elect not to report under paragraph (a) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

§ 75.17 Contract provisions.

(a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.

(b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.

(c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

§ 75.29 Multiple Funding Sources.

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to § 75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

[Continues Next Page](#)

§ 75.31 Recordkeeping.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

- (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (C) An employer's certification that the worker is employed by a Section 3 business concern; or
- (D) A worker's certification that the worker is a Youth Build participant.

Benchmarks - For Section 3 projects, the proposed benchmark notification set the same benchmarks but with regards to the project itself rather than the recipient's fiscal year. The proposed benchmark notification provided that recipients would meet the safe harbor in the new § 75.13 by certifying to the prioritization of effort in the new § 75.9 and meeting or exceeding Section 3 benchmarks for total number of labor hours worked by Section 3 workers and by Targeted Section 3 workers. The benchmark for Section 3 workers was set at 25 percent or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers was set at 5 percent or more of the total number of labor hours worked by all workers on a Section 3 project. **Simply stated, the contract needs to meet these two benchmarks in order to be in compliance.**

$$\frac{\text{Section 3 Workers Labor Hours}}{\text{Total Labor Hours for the Project}} = 25\%$$

$$\frac{\text{Section 3 Targeted Workers Labor Hours}}{\text{Total Labor Hours for the Project}} = 5\%$$

SECTION 3 BUSINESS SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 Business Certification requirements. To count as a Section 3 Business your company/firm must meet one of the listed categories below. Each category will require additional documentation to support the election. You must provide that supporting documentation with this form to be properly and completely confirmed as a Section 3 business. If this form is submitted without the required supplemental data, your certification will not be processed.

Section 3 Business Category	Additional Required Data	Mark an "X" on Your <u>Election</u>
It is at least 51 percent owned by low- or very low-income persons;	Proof of ownership showing all owners and their percentages and a completed Section 3 Individual Self-Certification form for all low- and very low-income owners	
Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or	Provide the last 90 days full payrolls for the entire company, make a list of the names from the payrolls of the Section 3 workers, and provide a completed Section 3 Individual Self-Certification for all low- and very low-income workers you list	
It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.	Proof of ownership showing all owners and their percentages and a Section 3 Individual Self-Certification form for all public housing and/or Section 8 owners	

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my business meets the elected definition and understand proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as a certified Section 3 business

Signature:		Date Signed:
Print Name:	Title:	
Company Name:	Signers Email:	
Address		
Telephone Number		
Type of Business: (Check One): <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other		

SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 self-certification income requirements. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are being confirmed as low-income.

Printed Name: _____

Street Address (Not a PO Box) Apt# City State Zip

Phone #: _____ Email: _____

To qualify as a Section 3 Person, you must meet one of the standards on the left side box and your income does not exceed the number in the right side box below.

Check only one line below that describes your housing situation:
___ I am a Public Housing Resident or Section 8 Assists me with my rent, or I am a current Youth Build participant
___ I receive No HUD support, but I am low-income and live in the City of Decatur, Morgan County including a 10 mile overlap into Limestone County

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my total income is as shown above, and that proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual. Finally, I authorize including my name on a list of Section 3 Residents seeking employment and to include my contact information so that contractors may contact me directly for any employment opportunities.

Signature

Date

DECATUR HOUSING AUTHORITY SECTION 3 HOURS WORKED REPORTING FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 tracking of hours worked by all person's employed by your company on the _____ contract including those meeting the Section 3 income requirements as low- or very low-income. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are confirming they are low-income. If your company employs any person, you believe is low income now or was when they were hired within the past five years, please have them complete the "SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM" and return it to the GC immediately. Please keep in mind the objective and the HUD benchmark requirements for this project are:

- 25% of the total labor hours worked by everyone employed under the project must be worked by Section 3 Workers (Defined as the low and very low-income people in your project service area)
- And
- 5% of the total labor hours worked by everyone employed under the project must be worked by Targeted Section 3 Workers (Defined as Public Housing and Section 8 Assisted persons in your project service area)

Therefore, we are interested in identifying as many people Section 3 workers as possible that will allow us to count their hours toward the benchmarks. However, all hours worked by everyone on the project must be reported monthly to:

Taura L. Denmon, Executive Director
Email: taura.denmon@decatgur-housing.org

Official Hours Worked for the Period of _____ 2025 - _____ 2026

Total Hours Worked by all Non-Section 3 staff _____

Total Hours Worked by All Section 3 staff Targeted and Non-Targeted _____

Please list the names and hours worked by each Section 3 Worker individually below or on a separate sheet.

First Name	Last Name	Total Hours This Period Only
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

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

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer 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 HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (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 U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, 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 offer, 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, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

(f) The only acceptable evidence to establish the date of mailing of a late offer, 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, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

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

(h) If this solicitation is a request for proposals, proposals 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 award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

Supplemental Instructions to Proposers & Contractors (SIPC)

Table of Contents

Section	Description	Page
1.0	General Conditions	2
1.1	Applicability	2
1.2	Definitions	2
2.0	Conditions To Propose	4
2.1	Pre-qualification of Proposers	4
2.2	RFP Forms, Document Specifications and Drawings	4
2.3	Proposal Preparation, Submission and Receipt by the NHA	4
2.4	Exceptions to Specifications	6
2.5	Lump Sum Cost Breakdown (LLCS)	6
3.0	Proposal Evaluation	7
3.1	Proposal Opening Results	7
3.2	Award of Proposal(s)	7
3.3	Rejection of Proposals	8
3.4	Cancellation of Award	8
3.5	Mistake in Proposal Submitted	8
3.6	Irregular Proposal Submitted	8
3.7	Disqualification of Proposers	9
3.8	Burden of Proof	10
4.0	Right To Protest	10
4.1	Purpose	10
4.2	Reference	10
4.3	General	10
4.4	Bid Protest	10
4.5	Award Protest	10
4.6	Protest Procedure	11
5.0	Disputed Billings (Charges)	12
5.1	Procedures	12
6.0	Additional Considerations	13
6.1	Non-escalation	13
6.2	Funding Restrictions and Order Quantities	13
6.3	Required Permits	13
6.4	Taxes	14
6.5	Government Standards	14
6.6	Freight on Bill and Delivery	14
6.7	Communication	14
6.8	Work on HA Property	14
6.9	Estimated Quantities	14
6.10	Warranty	15
6.11	Official, Agent and Employees of the NHA Not Personally Liable	15
6.12	Subcontractors	15
6.13	Salaries and Expenses Relating to the Successful Proposer's	15
6.14	Attorney's Fees	15
6.15	Independent Contractor	15
6.16	Severability	17
6.17	Waiver of Breach	17
6.18	Time of the Essence	18
6.19	Limitation of Liability	18
6.20	Indemnity	18
6.21	Indemnity	16
6.22	Lobbying Certification	17
6.23	2 CFR § 200.317-200.326 Procurement	18
6.24	Additional Federally Required Orders/Directives	22

1.0 GENERAL CONDITIONS:

1.1 Applicability: If referred to within the text of such, these ITPC shall be applicable to all Requests for Proposals (RFP) solicitations that Newberr Housing Authority (NHA) conducts and shall be applicable to any contract that the NHA awards to or signs with any firm, agency or individual pursuant to that RFP. A copy of these ITPC shall be made available to any actual or prospective proposer, or contractor who does business with or intends to do business with the NHA.

1.1.1 Unless otherwise specified within the RFP or contract documents, in the event that any provision in any document listed herein conflicts with any provision within these ITPC, the provision in RFP or contract document shall govern. Further, in the case of any attached HUD forms (more specifically: HUD-5369-C; HUD-5369-B; and HUD-5370-C, (Section I and/or Section II), the information within such HUD form(s) shall govern any other information issued, especially that issued within any NHA-created forms that are issued as a part of this solicitation.

1.2 Definitions (pertaining to all RFP documents issued by the NHA pertaining to this RFP, including the attachments and the ensuing contract):

1.2.1 "**Contracting Officer**" when named within an RFP document shall refer to the NHA PM (as delegated by the NHA ED who is the NHA Contracting Officer).

1.2.2 "**Contract**" refers to the fully executed written agreement that ensues from the RFP. Whereas all RFP documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an RFP document, such is referring to both the RFP documents and the ensuing contract document.

1.2.3 "**Contractor**" and the term "successful proposer" may be used interchangeably.

1.2.4 "**Days**" unless otherwise directed, shall refer to calendar days.

1.2.6 "**ED**" is the NHA Executive Director.

1.2.8 "**NHA**" is the Newberry Housing Authority, unless otherwise defined herein or within the ensuing contract, whenever the term "the NHA" is used without clearly designating a responsible NHA staff person, the proposer(s) may assume that responsibility for that item rests with the NHA PM.

1.2.9 "**HUD**" is the United States Department of Housing and Urban Development. HUD is the Federal agency that the NHA receives funding from; however, pertaining to this RFP, correspondences, including proposal submittals, received from each proposer must exhaust all provisions contained herein prior to contacting HUD (i.e., in the case of a protest).

- 1.2.10 "Herein" shall refer to all documents issued pursuant to the noted RFP, including the RFP documents and the attachments.
- 1.2.12 Offer" is the proposal submittal referred to within the following Section 1.2.16 that the proposer delivers to the NHA in response to the RFP.
- 1.2.13 Offeror" or "Offerors" are the proposer or proposers.
- 1.2.14 "PM" is the NHA Procurement Officer (or in his/her absence, his/her designated replacement).
- 1.2.15 "Parties" When "the parties," "both parties" or "either party" is stated within the RFP documents or the contract, such refers to the NHA and the successful proposer(s).
- 1.2.16 "Proposal" and/or "Proposal Submittal" is the "hard copy" document that the proposer is required to, as detailed within the RFP document, deliver to the NHA.
- 1.2.17 "Protestant" is a prospective proposer or proposer who feels that he/she has been treated inequitably by the NHA and wishes the NHA to correct the inequitable condition or situation. To be eligible to file a protest with the NHA pertaining to an RFP or contract, the protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e., registered and received the RFP documents).
- 1.2.18 "Prospective Proposer" or "Proposer" A prospective proposer is a firm or individual who has been notified of the RFP solicitation and/or who has requested and/or received the RFP documents and is considering responding with a proposal; a proposer is a firm or individual who has submitted a proposal in response to the RFP. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFP-- meaning, certain notices (such as the Notice of Results of Evaluation) are only delivered to proposers and not to prospective proposers.
- 1.2.19 "Request For Proposals" (RFP) is the competitive proposal process allowed by HUD, especially as defined within Chapter 7 of HUD Procurement Handbook 7460.8 REV 2.
- 1.2.20 "RFP Document(s)" Whether stated in the singular or the plural, such refers to the body of documents, including attachments and the information posted on the nahro.economicengine.com Internet site, that the NHA makes available to all prospective proposers wherein is detailed the NHA's requirements.

2.0 CONDITIONS TO PROPOSE:

2.1 Pre-Qualification of Proposers: Prospective proposers will not be required to pre-qualify in order to submit a proposal. However, all proposers will be required to submit adequate information showing that the proposer is qualified to perform the required work (i.e., Profile of Firm Form and required resumes). Failure by the prospective proposer to provide the requested information may, at the NHA's discretion, eliminate that proposer from consideration, provided that all proposers were required to submit the same information.

2.2 RFP Forms, Documents, Specifications and Drawings:

2.2.1 It shall be each prospective proposer's responsibility to, prior to submitting a proposal in response to the RFP, examine carefully and as may be required, properly complete all documents issued pursuant to this RFP.

2.2.2 Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.

2.2.3 The NHA shall reserve the right to, prior to award, revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued; such notice shall be delivered in writing to each prospective and/or actual proposer. Such changes that are issued before the deadline for receipt of proposals shall be binding upon all prospective proposers. Such changes that are issued after the receipt of proposals, but prior to award shall be binding upon all parties that have submitted proposals; however, such parties shall be allowed to reject such changes by, within 5 days of receipt of such written notice, withdrawing his/her proposal. Such withdrawal must be delivered, in writing, to the NHA PM within the 5-day deadline period.

2.3 Proposal Preparation, Submission and Receipt by the NHA:

2.3.1 Required Forms: All required forms furnished by the NHA as a part of the RFP document issued shall, as instructed, be fully completed, and submitted by the proposer. Such forms may be completed in a legible handwritten fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the proposer must "edit" the form back to its original form (for example, signature lines must appear on the page the line was originally intended to be on).

Manner of Submission: The proposal submittal shall be submitted in the manner detailed within the RFP document. Failure to submit the proposal in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that proposal, and may, at the

discretion of the NHA PM, eliminate that proposer from consideration for award.

- 2.3.3 Time for Receiving Proposals:** Proposals received prior to the time set as the deadline for the receipt by the NHA of the proposal submittal shall be securely kept, unopened, by the NHA. The PM, whose duty it is to open such proposals, will decide when the specified time has arrived. No proposal received after the designated deadline shall be considered, except as detailed within Section 6 of Form HUD-5369-B (8/93), *Late Submissions, Modifications and Withdrawal of Offers*.
- 2.3.3.1** Proposers are cautioned that any proposal submittal that may be time-stamped as being received by the NHA after the exact time set as the deadline for the receiving of proposals shall be returned unopened to the proposer. Any such proposals inadvertently opened shall not be considered, but shall be ruled to be invalid. No responsibility will attach to the NHA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and identified.
- 2.3.4 No Public Opening of Proposals:** Pursuant to the competitive proposals or RFP process, proposals are not publicly opened, but are held secure until the submittal deadline has passed. The proposals are then opened in private by the NHA PM (or his/her designee) and are, pursuant to the evaluation plan, examined for minimal responsiveness (i.e., minimum compliance with the requirements of the RFP). Persons other than NHA staff involved in this process are not allowed to be present during the opening, nor may they at any time inspect the proposals, either prior to or after award.
- 2.3.5 Withdrawal of Proposals:** Proposals may be withdrawn as detailed within Section 6(h) of Form HUD-5369-B (8/93), *Late Submissions, Modifications and Withdrawal of Offers*. Negligence on the part of the proposer in preparing his/her proposal confers no right of withdrawal or modification of his/her proposal after such proposal has been received and opened.
- 2.3.6 Conflicting Conditions:** Any provisions detailed within any of the RFP documents which may be in conflict or inconsistent with any of the paragraphs in any of the other RFP documents, including attachments, shall be void to the extent of any such conflict or inconsistency. Further, as stated within Section 1.1.1 of this ITP, unless otherwise specified within the RFP or contract documents, in the event that any provision in any document listed herein conflicts with any provision within this ITP, the provision in the RFP or contract document shall govern.
- 2.3.7 Interpretations:** No official oral interpretation can be made to any proposer as to the meaning of any instruction, condition, specifications drawing (if any), or any other document issued pertaining to this RFP. Every request for an official interpretation shall be made by the prospective proposer, in writing, pursuant to the schedule set within the

RFP document issued and as directed by the NHA. Official interpretations will be issued in the form of addenda, which will be delivered to each proposer; but it shall be the prospective proposer's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the RFP documents and the proposed contract with the successful proposer, and all proposers shall be bound by such addenda, whether or not received by the prospective or successful proposer(s).

2.4 Exceptions to Specifications:

2.4.1 A proposer may take exception to any of the proposal documents, or any part of the information contained therein, by submitting, in writing to the NHA PM, at least 10 days prior to the proposal deadline, a complete and specific explanation as to what he/she is taking exception to. Proposed alternate documents or information must also be included. A response by the NHA will be issued in writing within 5 days of receipt of such exception request. The NHA reserves the right to agree with the prospective proposer and issue a revision to the applicable RFP requirements, or may reject the prospective proposer's request.

2.4.2 When taking exception, prospective proposers must propose services that meet the requirements of the RFP documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-proposal conference (if scheduled). All verbal instructions issued by the NHA officers not already listed within the RFP documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.

2.5 Lump Sum Cost Breakdown (LSCB):

2.5.1 The NHA reserves the right to, at any time, request and receive from any or all proposers a LSCB of any or all of the costs proposed. The proposal documents constitute an outline of the work to be completed by the proposer. These documents are intended to include all major items, and the lump sum cost breakdown computed therefrom will be the maximum compensation for all work and materials whatsoever furnished by the proposer in order to comply with the proposal documents in their present form, whether or not indicated in the approximate quantities or pertaining to the items of work as listed.

2.5.1.1 The purpose of this LSCB will serve the NHA in two distinct areas:

2.5.1.1.1 **Prior to award of proposals:** The NHA may request a LSCB for any or all items reflected within the RFP document as “lump sum” for the purpose of determining an unbalanced cost proposal. The NHA PM, using acceptable methods dictated by the industry, shall conduct the analysis.

2.5.1.1.2 **After award:** The NHA may request a LSCB for any or all items reflected within the RFP document as “lump sum” for the purpose of making partial payments to the successful proposer.

2.5.1.1.3 Under no circumstances, may any cost item reflected as “lump sum” be increased/decreased as a result of the LSCB analysis.

3.0 PROPOSAL EVALUATION:

3.1 Proposal Opening Results: It is understood by all proposers/prospective proposers that the proposals received are not publicly opened and the results will typically not be a matter of public record until the NHA has concluded all evaluations, has chosen a final top-rated proposer, has completed the award and is ready to issue such results. When the NHA issues such notice, the NHA will inform all proposers as to each proposers’ placement as a result of the evaluation (i.e., 1st, 2nd, 3rd, etc.), the points each proposer was awarded as a result of the evaluation and the proposed costs submitted by each proposer.

3.1.1 All proposal documents submitted by the proposers are not necessarily a matter of public record and as a matter of normal course, the proposals submitted by each proposer will not, at any time, be viewed by any interested parties except as approved by the NHA Legal Counsel (i.e. a proposer will not be allowed to challenge an apparent top-rated proposer by inspecting the proposal that the apparent top-rated proposer submitted). The NHA shall, however, upon request, verify that the proposal documents submitted are/were complete and correct.

3.2 Award of Proposal(s): The successful proposer shall be determined by the top-rated responsive and responsible proposer as determined by the evaluation process detailed within the RFP document issued, provided his/her proposal is reasonable, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of the NHA, to the best interests of the NHA to accept the proposal. All proposers will be notified of the results of the evaluation at the earliest practicable date.

3.3 Rejection of Proposals:

- 3.3.1** The NHA reserves the right to, at any time during the proposal process, reject any or all proposals received. In the case of rejection of all proposals, the NHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of the NHA, the best interest of the NHA will be promoted.
- 3.3.2** Prospective proposers acknowledge by downloading and receiving the RFP documents and/or by submitting a proposal that the submission of a proposal to the NHA is not a right by which to be awarded that proposal, but merely an offer by the prospective proposer to perform the requirements of the RFP documents in the event the NHA decides to consider an award to that proposer.
- 3.4 Cancellation of Award:** The NHA reserves the right to, without any liability, cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- 3.5 Mistake in Proposal Submitted:**

 - 3.5.1** A request for withdrawal of a proposal due to a purported error need not be considered by the NHA unless the same is filed in writing by the proposer within 48 hours after the proposal deadline. Any such request shall contain a full explanation of any purported error and shall, if requested by the NHA, be supported by the original calculations on which the proposal was computed, together with a certification and notarization thereon that such computation is the original and prepared by the proposer or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as the NHA retains the right to accept or reject any proposed withdrawal for a mistake.
 - 3.5.2** Unless otherwise prohibited within the RFP documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at the NHA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred to the NHA PM, for his/her review. This mistake must be corrected before the issuance of contract documents.
- 3.6 Irregular Proposal Submittal:** A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at the NHA's discretion, be cause for rejection:

 - 3.6.1** If the forms furnished by the NHA are not used or are altered or if the proposed costs are not submitted as required and where provided.
 - 3.6.2** If all requested completed attachments do not accompany the proposal submitted.
 - 3.6.3** If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal

incomplete, indefinite, or ambiguous as to its meaning or give the proposer submitting the same a competitive advantage over other proposers.

3.6.4 If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

3.6.5 If the individual cost proposal items submitted by a specific proposer are unbalanced in the sense that the listed price of any cost item departs by more than 25% from the NHA's cost estimate for that item.

3.7 Disqualification of Proposers: Any one or more of the following shall be considered as sufficient for the disqualification of a prospective proposer and the rejection of his/her proposal:

3.7.1 Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as bidders or proposers for any future work of the NHA until such participant shall have been reinstated as a qualified bidder or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.

3.7.2 More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s).

3.7.3 Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.

3.7.4 Unsatisfactory performance record as shown by past work for the NHA or with any other local, State or Federal agency, judged from the standpoint of workmanship and progress.

3.7.5 Incomplete work, which in the judgment of the NHA, might hinder or prevent prompt completion of additional work, if awarded.

3.7.6 Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.

3.7.7 Failure to comply with any qualification requirement of the NHA.

3.7.8 Failure to list, if required, all subcontractors (if subcontractors are allowed by the NHA) who will be employed by the successful proposer(s) to complete the work of the proposed contract.

3.7.9 As required by the RFP documents, failure of the successful proposer to be properly licensed by the City of Newberry and/or the State of South Carolina and/or to be insured by a general liability and/or worker's compensation policy.

3.7.10 Any reason to be determined, in good faith, to be in the best interests of the NHA.

3.8 Burden of Proof: If requested by the NHA, it shall be the responsibility of the proposer(s) to furnish the NHA with sufficient data or physical samples, within a specified time, so that the NHA may determine if the goods or services offered conform to the Specifications.

4.0 Right to Protest:

4.1 Rights: Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

4.1.1 An alleged aggrieved "protestant" is a prospective proposer or proposer who feels that he/she has been treated inequitably by the NHA and wishes the NHA to correct the alleged inequitable condition or situation. To be eligible to file a protest with the NHA pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e., registered and received the RFP documents) when the alleged situation occurred. The NHA has no obligation to consider a protest filed by any party that does not meet these criteria.

4.2 Administrative Powers: It is totally within the administrative powers of the NHA ED to grant or deny any requests for administrative appeal. If, in the opinion of the ED, the alleged aggrieved protestant merits an administrative review, the ED shall direct that alleged aggrieved protestant to submit additional data.

4.3 Procedure to Protest: An alleged aggrieved protestant shall comply with the following protest procedures, and failure to comply in the manner prescribed shall automatically relieve the NHA from accepting or considering that protest:

4.3.1 The alleged aggrieved protestant must file, in writing, to the NHA PM 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 the NHA or condition is being protested as inequitable, making, where appropriate specific reference to the RFP documents issued. The protest document must also state the corrective action requested. Failure by the alleged aggrieved protestant to fully submit such information shall relieve the NHA from any responsibility to take any corrective action.

4.3.2 The written instrument containing the reason for the protest must be received by the PM within 10 days after the occurrence of the following:

4.3.2.1 the deadline for receiving proposals;

4.3.2.2 receipt of notification of the results of the evaluation or the award; or

- 4.3.2.3 the alleged aggrieved protestant knows or should have known the facts.
- 4.3.3 In any case, protests shall be filed no more than 10 days after any of the above (unless the occurrence being protested occurred in its entirety after the proposal deadline). Protests received after these dates shall not be considered.
- 4.3.4 The NHA PM shall review the written protest and supportive data, if any. He/she shall, within 10 days after receipt of the written protest, issue a written opinion and decision. This document shall state the reasons for the action taken as well as inform the alleged aggrieved protestant of the right of further administrative review. A copy of this written opinion and decision shall be forwarded to the NHA ED.
- 4.3.5 **Administrative Appeal:** If the alleged aggrieved protestant does not agree with the written opinion and decision issued by the NHA PM, the alleged aggrieved protestant may, after receipt of the written opinion and decision issued by the NHA PM request an administrative appeal hearing be granted. The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestant to comply shall automatically relieve the NHA from accepting or acting on that request for administrative hearing:
- 4.3.5.1 The alleged aggrieved protestant must file, in writing, his/her request for an administrative hearing, to the NHA ED. This request must be filed within 10 calendar days after the receipt of the NHA PM's written opinion and decision.
- 4.3.5.2 The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.
- 4.3.5.3 It shall be within the administrative powers of the NHA ED to, after review of the request submitted, grant or deny any request for administrative appeal.
- 4.3.5.4 If the NHA ED, after complete review of the alleged aggrieved protestant's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the alleged aggrieved protestant. A decision rendered under this paragraph shall be made within 10 days after the receipt of the alleged aggrieved protestant's request for an administrative hearing. This decision shall be final without further administrative recourse.
- 4.3.5.5 If the NHA ED, after review of the alleged aggrieved protestant's written request, decides that the request merits further consideration, he/she shall forward the protestant's

written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to the NHA Legal Counsel for consideration. The NHA Legal Counsel shall issue to the alleged aggrieved protestant a decision, in writing, within 10 days of his/her receipt of such documents.

- 4.3.5.5 Such written decision delivered to the alleged aggrieved protestant shall exhaust the NHA internal protest and administrative appeal process available to the alleged aggrieved protestant.

5.0 Disputed Billings (Charges):

5.1 **Procedures:** In addition to the procedures detailed within Clause No. 7 of Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the NHA disputes any portion of its billing(s), the NHA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

- 5.1.1 The NHA's representative shall, within 10 days after the NHA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.
- 5.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the NHA PM and the contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.
- 5.1.3 If the NHA PM and the contractor's representative are unable to resolve the dispute through such discussion within 10 days, the NHA shall, within 10 days thereafter, either:
 - 5.1.3.1 pay the disputed charges and reserve the right to submit the matter to an Arbitration Specialist or to the appropriate district court in the State of South Carolina;
 - 5.1.3.2 not pay the disputed charge and submit the matter to the Arbitration Specialist or to the appropriate district court in the State of South Carolina;
- 5.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the NHA, the NHA shall pay the NHA's receipt of the decision. If the decision is in favor of the NHA, the contractor will either:
 - 5.1.4.1 clear the amount which is ordered from the NHA account; or

5.1.4.2 repay to the NHA the amount ordered;

Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

6.0 Additional Considerations:

- 6.1 Non-Escalation:** Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.
- 6.2 Funding Restrictions and Order Quantities:** The NHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the NHA, if:
- 6.2.1** funding is not available;
- 6.2.2** legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
- 6.2.3** the NHA's requirements in good faith change after award of the contract.
- 6.3 Required Permits:** Unless otherwise stated in the RFP documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either the NHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and any costs submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits.
- 6.4 Taxes:** All persons doing business with the NHA are hereby made aware that the NHA is exempt from paying South Carolina State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 6.5 Government Standards:** It is the responsibility of the prospective proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NOSHA) and environmental control (EPA and Newberry County Pollution Regulations) and any other enacted ordinance, code, law, or regulation. The successful proposer shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law, or regulation. No time extensions shall be granted, or financial consideration given to the successful proposer for time or monies lost due to violations of any such ordinance, code, law, or regulations that may occur.
- 6.6 Freight on Bill and Delivery:** All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFP documents or within the contract.
- 6.6.1** The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful

proposer. Upon default, the successful proposer agrees that the NHA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.

- 6.7 Communication:** If during the period of the contract, it is necessary that the NHA place toll or long distance telephone calls or telegrams in connection therewith (for complaints, adjustments, shortages, failure to deliver, etc.), it is understood that the successful proposer will bear the charge or expense for all such calls and/or telegrams.
- 6.8 Work on NHA Property:** If the successful proposer's work under the contract involves operations by the successful proposer on NHA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the NHA's negligence, shall indemnify the NHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subcontractors.
- 6.9 Estimated Quantities:** Unless otherwise indicated, the quantities reflected within the RFP documents, to the best of the NHA's knowledge, reflect projected consumption data. These quantities are not meant to infer or imply actual consumption figures or quantities that will be purchased by the NHA under the finalized contract; but, pursuant to all RFP documents, these quantities will be used as calculation figures to determine the successful proposer.

6.10 Warranty:

- 6.10.1** The services provided under the contract shall conform to all information contained within the RFP 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.
- 6.10.2** The liability of the successful proposer to the NHA (except as to title) arising out of the furnishing of the services or of its use under the terms of the contract shall not exceed the correcting of the defect(s) in the services as provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose.
- 6.11 Official, Agent and Employees of the NHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the NHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 6.12 Subcontractors:** Unless otherwise stated within the RFP documents, the successful proposer may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the NHA PM.
- 6.13 Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State, and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 6.14 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including attorneys' fees, in a reasonable amount, to be determined by the court. The amount allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 6.15 Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the successful proposer is an independent contractor. Nothing herein shall create any association, agency, partnership, or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 6.16 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the

application thereof to other situations or circumstances shall not be affected thereby.

- 6.17 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be the limitation of any other remedy, right, obligation or agreement of either party.
- 6.18 Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 6.19 Limitation of Liability:** In no event shall the NHA be liable to the successful proposer
for any indirect, incidental, consequential, or exemplary damages.
- 6.20 Indemnity:** To the full extent authorized by law, Contractor agrees to indemnify, hold harmless and defend NHA, its commissioners, employees, and agents from and against any and all liabilities, claims, damages, losses, suits, penalties, forfeitures, actions, decrees, judgments, attorneys' fees, court costs, and other costs and expenses incidental thereto (including but not limited to the cost of defense, settlement, judgment, and reasonable attorneys' fees) which NHA, its officers, commissioners, employees, or agents may suffer or which may be sought against, recovered from, or obtainable against NHA, its commissioners, employees, or agents, as a result of, by reason of, arising out of, on account of, or in consequence of any act or failure to act on the part of Contractor, its subcontractors or agents, or anyone directly or indirectly employed by any such subcontractors or agent, in the fulfillment or performance of the terms, conditions, or covenants that are contained in this Agreement, and which said act or failure to act is contrary to or is not authorized by this Agreement or is otherwise negligent, wanton, willful, or contrary to any applicable law, regulation, or recognized standard of practice or performance. The covenants and obligations set forth in the preceding sentence shall exist and remain in full effect notwithstanding the fact that the occurrence which gave rise to such claim, damage, loss, liability, suit, action, judgment, or expense was caused in part by the negligence or other wrongful act of any party indemnified hereunder. Nothing contained herein shall waive any rights, privileges, immunities, or limitations of liability to which NHA is entitled under the Code of South Carolina (which limits recovery for damages against a governmental entity to \$100,000 for bodily injury or death for one person in a single occurrence; \$300,000 in the aggregate for bodily injury or death for more than two persons in a single occurrence; and \$100,000 for damage or loss of property in a single occurrence) or under any other present or future statute or rule of law which limits any liability of NHA in any manner.
- 6.21** In the course of performing the services under this RFP, Contractor shall assume full liability for any and all claims and demands for injury and property damage caused by its employees, agents, or equipment. To the extent any such claim is made or determined payable against NHA, Contractor further shall indemnify and hold NHA harmless, therefore. This shall include any and all claims arising from the implementation of this Agreement and arising from the work and performance of services undertaken by Contractor, its employees, agents, or subcontractors and

arising out of any other operation no matter by whom performed for and on behalf of Contractor, whether or not due in whole or in part to conditions, acts, or omissions done, or permitted by Contractor or NHA.

6.22 Lobbying Certification: By proposing to do business with the NHA or by doing business with the NHA, each proposer certifies the following:

- 6.22.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of an Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- 6.22.2** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of an Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 6.22.3** The successful proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 6.22.4** This clause is a material representation of fact upon which reliance was placed when the award was made or entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

6.23 2 CFR § 200.317-200.326: Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the NHA and the contractor each agree to comply with the following provisions and agree that any contract that ensues as a result of this RFP will include the following clauses, whether actually inserted or by reference:

6.23.1 Remedies for Contractor Breach: Pertaining to contract-related issues, it is the responsibility of both the NHA and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the NHA or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the NHA has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the NHA shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the NHA shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

6.23.1.1 If the contractor is in material breach of the contract, the NHA may promptly invoke the termination clause detailed within Section No. 3 of form HUD-5370-C, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

6.23.1.2 Prior to termination, the NHA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The NHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the NHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the NHA's alleged incorrect action(s).

- 6.23.1.3** After termination, if the contractor does not agree with the NHA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the NHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the NHA's alleged incorrect action(s).
- 6.23.1.4** The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.
- 6.23.2** **Termination for Cause and Convenience:** As detailed within Clause No. 3 of Form HUD-5370-C, *General Conditions for Non-Construction Contracts, Section I—(Within or without Maintenance Work)*, attached hereto.
- 6.23.3** **Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 6.23.4** **Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 6.23.5** **Davis-Bacon-Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 6.23.6** **Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 6.23.7** **Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 6.23.8** **Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 6.23.9** **Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Form HUD-5370-*General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the NHA has unlimited rights to any data, including computer software,

developed by the contractor in the performance of the contract specifically:

- 6.23.9.1** Except as provided elsewhere in this clause, the HA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
- 6.23.9.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 6.23.9.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the PM, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the NHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the NHA.
- 6.23.9.4** The contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the NHA a license of the same scope as identified in the preceding paragraph.

- 6.23.9.5** The NHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract is improperly marked, the NHA may either return the data to the contractor, or cancel or ignore the markings.
- 6.23.9.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 6.23.9.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the NHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 6.23.9.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the NHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 6.23.10** **Clean Air Act:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- 6.23.13** **Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

- 6.24 Additional Federally Required Orders/Directives:** Both parties agree that they will comply with the following laws and directives that the NHA has received from HUD and that these same clauses will be a part of any contract that ensues as a result of this RFP:
- 6.24.1** Executive Order 11061, as amended, directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
 - 6.24.2** Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin, or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The NHA hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 1901 et. seq.).
 - 6.24.3** Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the NHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
 - 6.24.4** The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
 - 6.24.5** Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
 - 6.24.6** HUD Information Bulletin 909-23 which is the following:
 - 6.24.6.1** Notice of Assistance Regarding Patent and Copyright Infringement;
 - 6.24.6.2** Clean Air and Water Certification; and
 - 6.24.6.3** Energy Policy and Conversation Act.
 - 6.24.7** The mentioned herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as

though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party.

ATTACHMENT G (SAMPLE CONTRACT)

**AGREEMENT BY AND BETWEEN
THE HOUSING AUTHORITY OF THE CITY OF NEWBERRY, SOUTH CAROLINA
AND
[REDACTED]**

THIS AGREEMENT (“Agreement”) is made between The Housing Authority of the City of Newberry, South Carolina (hereinafter referred to as “NHA”) a public corporation with its principal office located at 3589 Grant Avenue, Newberry, South Carolina, 29108, and [REDACTED] (hereinafter referred to as “Contractor”) with its principal office located at [REDACTED]

WHEREAS NHA extended an Invitation for Bids (“IFB”) No. [REDACTED] to interested qualified companies to provide labor, material, and equipment for [REDACTED]; and

WHEREAS NHA has received bids to provide [REDACTED]; and

WHEREAS Contractor submitted a bid to said IFB, which appears to be in conformity with the needs of NHA.

NOW, THEREFORE, in consideration of the mutual covenants between the parties herein provided, the parties do agree to the following terms and conditions:

1. SCOPE OF SERVICES

1.1 Contractor shall perform all work or services in strict in accordance with the terms, provisions, and specifications provided in this Agreement, NHA’s IFB, and IFB attachments, all labeled as **Exhibit A**, attached hereto, and incorporated herein by reference as though fully set forth. In the case of any conflict, inconsistency, or discrepancy between this Agreement, the IFB, and IFB attachments, the requirement(s) and the Contractor’s submitted bid or proposal, the provisions of this Agreement shall take first precedence, and then next the provisions of the IFB, the IFB Scope of Work and the IFB’s attachments.

1.2 Contractor’s responsibility will terminate when all work has been completed, the final inspections made, and the work is accepted by the authorized NHA Contract Administrator in the manner defined by this Agreement. At all times during the performance of this Agreement until work is completed and accepted, the Contractor shall either directly superintend the work or assign and have on the work site, a competent superintendent who is satisfactory to the NHA and who has the authority to act for the Contractor. Acceptance of the work must be in writing and signed by the Contract Administrator. The Contractor shall provide prompt written notification to the Contract Administrator when all work is completed.

2. COMPENSATION-PAYMENT

2.1 Contractor’s base bid makes up the contract price, to include all work and services, and work reasonably incidental hereto. Contractor shall be compensated in an amount **Not-To- Exceed (NTE)** [REDACTED] ([REDACTED]) for the satisfactory performance and completion of the services to be performed under this Agreement.

ATTACHMENT G (SAMPLE CONTRACT)

- 2.2 This is a fixed price Agreement, and the amount specified herein as compensation is inclusive of all services, salaries, performance, supervision, materials, supplies, telephone, travel, lodging, and any and all other costs and expenses incurred in providing the services to be performed hereunder.
- 2.3 The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor’s fees to exceed the NTE amount without prior revision of this amount by written change order (Change Order). Further, NHA reserves the right to amend this amount (increase/decrease) at any time during the ensuing contract period(s) when NHA determines doing so is in its best interest.
- 2.4 Contractor shall submit a detailed disbursement request, setting forth the required disbursement, and NHA shall pay the amount-required disbursement within thirty (30) business days after receipt of the disbursement request, along with any reasonably requested lien waivers from all material and subcontractors who have satisfactorily performed work and/or delivered materials to the Project as of the date of the disbursement request. Payment for services invoiced is subject to review and approval by the Contract Administrator.
- 2.5 During the term of this contract, Contractor, upon request from NHA, will make available for inspection by NHA, copies of payroll records, personnel records and documents, and other records and/or documents that may be used to verify Contractor’s compliance with U.S. Department of Housing and Urban Development, Office of Labor Relations, Davis Bacon (attached) and/or Maintenance Wage Rate Determination.

3. TIME AND ORDER OF PERFORMANCE

- 3.1 Performance of this Agreement is scheduled to begin on or about [REDACTED], and to be completed no later than [REDACTED], unless an extension of time is authorized by NHA and is evidenced in a written document signed by NHA and executed before the scheduled completion date. Performance of this Agreement shall commence with issuance of a Notice to Proceed by the Executive Director. The Notice to Proceed, upon issuance, shall become an attachment and amendment to this Agreement as though fully set forth herein and is intended to prevail over the scheduled dates, if different than those stated herein.
- 3.2 Contractor acknowledges, understands, and agrees that the time for completion of the work by the scheduled date is of the essence in this agreement.

4. CONTRACTOR’S OBLIGATIONS

- 4.1 Pursuant to this Agreement, the Contractor agrees to provide the specific services detailed herein and shall be responsible for the following:
 - (a) **Supervision and Oversight.** The Contractor shall be solely responsible for providing supervision and oversight to all the Contractor’s personnel that are assigned to NHA properties pursuant to this Agreement and/or that are involved in the performance of any services.
 - (b) **Qualified Personnel.** The Contractor warrants and represents that it will assign only qualified personnel to perform the services. For the purposes of this Agreement, the term “qualified personnel” shall mean those personnel that have been investigated,

ATTACHMENT G (SAMPLE CONTRACT)

tested, and trained in the manner described within this Agreement and, as proposed by the Contractor within its bid or as provided by the Contractor during the Contractor's normal conduct of business.

- (c) **Immigration Compliance.** Contractor agrees that it shall fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the I-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of South Carolina. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ any unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the Board. Contractor shall also enroll in the E-Verify Program prior to performing any Services and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Services or this Agreement, and shall include in all of its contracts a provision substantially similar to this section. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of South Carolina, it will remove that employee from the project, jobsite or premises of the Board and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this section, this Agreement shall be subject to immediate termination by the Board without recourse or further liability. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the Board from any and all losses, liabilities, damages (including, but not limited to, consequential damages), expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this section.
- (d) **Local, State, and/or Federal Permits.** Unless otherwise stated in the IFB documents, all local, State, or Federal permits which may be required to provide the services ensuing from award of this IFB, whether or not they are known to either the Agency or the bidders at the time of the bid submittal deadline or the award, shall be the sole responsibility of the Contractor and any costs that were submitted by the Contractor in response to the IFB shall reflect all costs required by the Contractor to procure and provide such necessary permits.
- (e) **Work on Agency Property.** If the Contractor's work under this Agreement involves operations by the Contractor on NHA premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by NHA's negligence, shall indemnify NHA and its officers, agents, servants

ATTACHMENT G (SAMPLE CONTRACT)

and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors. NHA shall maintain a right of oversight with respect to any activities on its premises, together with the right to exclude Contractor employees or subcontractor employees who violate laws, damage property, or otherwise threaten the quiet enjoyment of tenants or residents. Contractor shall be responsible for ensuring that all Contractor employees and any subcontractors abide by all laws, ordinances, and safety standards, and the violation of any of these shall be grounds for immediate termination of this Agreement.

5. ASSIGNMENT - SUBCONTRACTING - TRANSFER

- 5.1 NHA encourages the participation of women, NHA residents, and minority- owned businesses. Contractor will make every effort to utilize businesses owned by minorities and/or women and NHA residents for work performed under this Agreement.
- 5.2 Contractor shall not enter into any subcontract with any subcontractor who has been denied participation in any HUD program or who has been debarred from performing work by any agency of the United States or the State of South Carolina.
- 5.3 Contractor will submit a list of all prospective subcontractors to NHA prior to commencement of work and will submit all information requested by NHA to fairly evaluate the subcontractor. NHA may disapprove of the use of any subcontractor for cause stated to Contractor. NHA's approval, disapproval, or election not to disapprove does not create an assumption of liability for acts or omissions of Contractor or subcontractor.
- 5.4 Nothing contained in this Agreement shall create a contractual relationship between any subcontractor and NHA. No subcontractor is a party to this Agreement between Contractor and NHA. This shall not be used or construed in any way to offer a third-party benefit to any subcontractor, nor to any employee, vendor, or any independent contractor of any subcontractor. Contractor shall assume full responsibility for the work performed pursuant to this Agreement and shall indemnify and hold NHA harmless from all damages for claims of all subcontractors or any employees, independent contractors, or vendors of any subcontractor, which are made relative to, or arising from, work to be performed by Contractor under this Agreement.
- 5.5 Contractor shall be fully responsible for the acts or omissions of the subcontractors and the persons employed by the subcontractors.
- 5.6 The performance of services under this Agreement may not be assigned or transferred without the expressed written approval of NHA prior to such assignment or transfer. Contractor acknowledges, understands, and agrees that assignment or transfer of performance shall be at the sole discretion of NHA. Approval for the same may be denied by NHA for its own convenience.

6. CONFLICT OF INTEREST

No member, officer, or employee of NHA, no member of the governing body of the locality in which NHA was organized, and no other public official of such locality who exercises any functions or responsibilities with respect to NHA shall have any interest, direct or indirect, in this Agreement or the proceeds thereof within its tenure, or for one year thereafter.

ATTACHMENT G (SAMPLE CONTRACT)

7. GRATUITIES-KICKBACKS-USE OF CONFIDENTIAL INFORMATION-

NHA officers, employees, or agents shall not solicit nor accept gratuities, favors, or anything of monetary value from Contractors, potential contractors, or parties to subcontracts and shall not knowingly use confidential information for actual or anticipated personal gain. Contractor represents and warrants that it has not paid and will not pay any person for influencing or attempting to influence an officer or employee of any agency, member of Congress or employee of a member of Congress, or any officer or employee of Congress in connection with the awarding of this Agreement or any other NHA contract.

8. DISPUTE RESOLUTION PROCEDURE

A Point of Contact (POC) has been assigned to this contract. The POC is a NHA representative who will oversee and manage the performance of the contract. Any controversy or dispute arising under this Agreement shall be referred to the POC and the Contract Administrator by Contractor. If Contractor, the POC, and the Contract Administrator fail to agree on a resolution of the dispute or controversy, Contractor shall give written notice of the controversy to the Executive Director (ED) for NHA, who will serve as contracting officer for this Agreement. The decision of the CO will be binding on both parties hereto, except as the same may be modified by a court of competent jurisdiction. NHA and Contractor hereby agree that the time and order for performance under this Contract will be in compliance with NHA’s Contract Administration Plan, labeled as **Exhibit B**, attached hereto, and incorporated herein by reference. The Contract Administration Plan shall identify the POC for this Agreement.

9. TERMINATION OF THE CONTRACT

9.1 NHA may terminate immediately this Agreement upon notice to Contractor for any of the following reasons: failure to deliver the services as specified, failure to perform the work in a timely manner or refusing or failing to prosecute the work or any separate portion thereof within the stipulated time, or any violation of any provision of this Agreement. NHA may consider any of the foregoing events to be a default under the Agreement, and if the Agreement is terminated due to such a default, Contractor will not be entitled to payment for any undelivered work, services, or reports. Contractor further agrees that in the event of such a default NHA may obtain the services of another contractor for completion of the work required.

9.2 NHA may also terminate this Agreement due to lack of performance and if the performance is so terminated, either in whole or in part, NHA shall pay to Contractor the prorated percentage of all services satisfactorily completed up to the date of termination. Percentage of completion will be determined by the NHA.

9.4 **No Smoking on Agency Property.** The NHA has implemented a No Smoking policy on all its properties. Accordingly, the Contractor shall ensure that its employees or other persons brought or allowed onsite by the Contractor shall not utilize any smoking materials on NHA’s property at any time

9.5 NHA may consider any of the foregoing events to be a default under the Agreement, and if the contract is terminated due to such a default, Contractor will not be entitled to payment for any undelivered work, services, or reports. Contractor further agrees that in the event of such a default NHA may obtain the services of another contractor for completion of the work required.

ATTACHMENT G (SAMPLE CONTRACT)

9.6 In the event notice is required under this Agreement, said notice shall be sent by certified mail, return receipt requested, shall be effective upon the date so indicated, and deemed received, whether signed by Contractor, its agent or representative, or is indicated as refused. If to Contractor, said notices and demands should be sent by certified mail, return receipt requested, or hand delivered to [REDACTED] located at [REDACTED]. If to NHA, said notices and demands shall be sent by certified mail, return receipt requested, or hand delivered to the Executive Director, 3589 Grant Avenue, Newberry, SC. 35602.

10. VENUE; CONTROLLING LAW; ENTIRE AGREEMENT

- 10.1 In the event that any action, suit or proceeding, either in law or in equity, arises out of or relates to this Agreement, both parties agree that such action, suit, or proceeding shall be filed and prosecuted only in the federal or state courts located in Newberry County, South Carolina. Neither party shall have the right to object to such venue, including, but not limited to, on grounds that such venue is improper or inconvenient. Contractor submits and consents to the personal jurisdiction of and venue in such federal or state courts.
- 10.2 This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Carolina, excluding any conflict of laws rules of the State of South Carolina that would cause the application of the laws of any jurisdiction other than the State of South Carolina.
- 10.3 This Agreement (including those documents expressly incorporated by reference and any exhibits or schedules to this Agreement) is an integrated document and contains the sole and entire agreement and understanding between the parties as to the matters contained in this Agreement, and, except as otherwise provided in this Agreement, fully supersedes and merges any and all prior and contemporaneous agreements, understandings, proposals, negotiations, arrangements, representations, industry usages, courses of dealing and/or discussions between the parties as to the matters contained in this Agreement. Each party acknowledges that it has not been induced to enter into this Agreement by any representations or statements, oral or written, not expressly contained in this Agreement.

11. COMPLIANCE WITH LAWS AND REGULATIONS

- 11.1 Contractor shall give all notices required by, shall comply with, all work or services of Contractor shall be in accordance with, all applicable federal, state, and local laws, ordinances, codes, rules, and regulations as they exist or may be amended during performance of this Agreement.
- 11.2 Contractor shall assume full liability for all contributions, taxes, payroll withholdings or other payments required for the benefit of the employees of Contractor by any federal, state, or local law. In the event there are any subcontractors, Contractor shall require the subcontractor(s) to pay the same such contributions, taxes, payroll withholdings or other payments required for the benefit of the subcontractor's employees. Contractor assumes all liability for all other future acts or laws, be they state, federal or local, requiring the payment of similar contributions or taxes for the benefit of its employees. Contractor assumes all liability for payment of all sales and use taxes imposed by any governmental entity arising from Contractor's performance under this Agreement.

ATTACHMENT G (SAMPLE CONTRACT)

11.3 While on any property or premises of NHA, Contractor and its employees, agents and subcontractors shall comply with all applicable policies, procedures, rules, and regulations of NHA, including, but not limited to, NHA's no smoking policy, a copy of which has been provided to and agreed to by Contractor.

12. MODIFICATIONS

The terms and conditions contained in this Agreement may not be added to, modified, superseded, or otherwise altered, except by a written instrument signed by the authorized representatives of NHA and Contractor, and the work shall be deemed to be only upon the terms and conditions contained in this Agreement and accompanying Exhibits, notwithstanding any terms or conditions that may be contained in any acknowledgment, invoice, or other form of Contractor or any of its suppliers, and notwithstanding NHA's act of receiving or paying for any non-conforming product, report, service, or any similar action on the part of NHA.

13. SEVERABILITY

If a court of competent jurisdiction finds any provision of this Agreement to be void and/or unenforceable, the parties hereto agree that those provisions of the Agreement not directly affected by the void and/or unenforceable provision shall continue in full force and effect.

14. LIABILITY-INDEMNITY-REMEDIES

14.1 In the course of performing the services under this Agreement Contractor shall assume full liability for any and all claims and demands for personal injury (including death) or property damage caused by its employees, agents, or equipment. To the extent any such claim is made, or determined payable against NHA, Contractor further shall indemnify and hold NHA harmless, therefore. This shall include any and all claims arising from the implementation of this Agreement and arising from the work and performance of services undertaken by Contractor, its employees, agents, or subcontractors and arising out of any other operation, no matter who performed it on behalf of Contractor, whether or not due in whole or in part to conditions, acts, or omissions done or permitted by Contractor or NHA.

To the full extent authorized by law, Contractor agrees to indemnify, hold harmless, and defend NHA, its officers, commissioners, employees, and agents from and against any and all liabilities, claims, damages, losses, suits, penalties, forfeitures, actions, decrees, judgments, attorneys' fees, court costs, and other costs and expenses incident thereto (including but not limited to the cost of defense, settlement, judgment, and reasonable attorneys' fees) that NHA, its officers, commissioners, employees, or agents may suffer or which may be sought against, recovered from, or obtainable against NHA, its officers, commissioners, employees, or agents as a result of, by reason of, arising out of, on account of, or in consequence of any act or failure to act on the part of Contractor, its employees, subcontractors or agents, or anyone directly or indirectly employed by any such subcontractor or agent in the fulfillment or performance of the terms, conditions, or covenants that are contained in this Agreement and which said act or failure to act is contrary to, or is not authorized by this Agreement, or is otherwise negligent, wanton, willful, or contrary to any applicable law, regulation, or recognized standard of practice or performance. The covenants and obligations set forth in the preceding sentence shall exist and remain in full effect, notwithstanding the fact that the occurrence which gave rise to such claim, damage, loss, liability, suit, action, judgment, or expense was caused in part by negligence or other wrongful act of any party indemnified hereunder. **Nothing contained herein shall waive any rights, privileges, immunities, or**

ATTACHMENT G (SAMPLE CONTRACT)

limitations of liability to which NHA is entitled under §11-93-2 of the Code of Alabama (which limits recovery for damages against a governmental entity to \$100,000 for bodily injury or death for one person in a single occurrence; \$300,000 in the aggregate for bodily injury or death for more than two persons in a single occurrence; and \$100,000 for damage or loss of property in a single occurrence) or under any other present or future statute or rule of law which limits any liability of NHA in any manner. In no event whatsoever shall NHA be liable for or obligated to pay any incidental, consequential, special, exemplary, or punitive damages.

- 14.2 No remedy herein provided shall be deemed exclusive of any other remedy allowed in law or in equity. These provisions are specifically intended and shall survive the termination of this agreement.
- 14.3 Contractor acknowledges and agrees that in no event shall any official, officer, employee, or agent of NHA in any way be personally liable or responsible for any covenant or agreement herein contained, whether either expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Agreement.

15. CONTRACTOR AS INDEPENDENT CONTRACTOR

It is agreed that Contractor is an independent contractor with respect to all work and activities contemplated by this Agreement and that all of Contractor's employees, who perform work with respect to this Agreement, are the employees of Contractor and not of NHA. Contractor shall exercise complete control over the conduct of its employees and will pay all wages and applicable federal, state, social security, and unemployment taxes, as well as workers' compensation insurance, with respect to such employees.

16. INSURANCE REQUIREMENTS

Contractor shall maintain the following insurance coverages during term of this Agreement:

- 16.1 **General Liability Insurance.** An original certificate evidencing General Liability coverage, naming NHA as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of NHA as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a commercially reasonable deductible (e.g. "commercially reasonable," meaning at least 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of \$50,000).
- 16.2 **Automobile Insurance.** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$100,000/\$300,000 and medical pay of \$5,000.
- 16.3 **Worker's compensation** coverage evidencing carrier and coverage amount.
- 16.4 The Contractor shall provide to the NHA with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the NHA as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof.

ATTACHMENT G (SAMPLE CONTRACT)

16.5 Contractor shall furnish NHA with certificates of insurance reflecting the required coverage. The certificates for each insurance policy are to be signed by a person authorized by the insurance carrier to bind coverage on its behalf. All certificates are to be received and approved by NHA before work commences. NHA reserves the right to require complete, certified copies of all required insurance policies at any time. All insurance policies and certificates related thereto shall provide for, and require, reasonable notice to NHA prior to cancellation of any policy upon which NHA is an additional insured.

17. FINANCIAL VIABILITY AND REGULATORY COMPLIANCE

- 17.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state, and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state, or local taxes or business assessments.
- 17.2 The Contractor agrees to promptly disclose to the NHA any liens (including, but not limited to, mechanic's or materialman's liens) or insurance or licensure suspension or revocation that may adversely affect its capacity to perform any of the services under this Agreement. The failure by the Contractor to disclose such issue to the NHA in writing within 5 days of such notification received will constitute a material breach of this Agreement.
- 17.3 The Contractor further agrees to promptly disclose to the NHA any change of more than 50% of its ownership and/or any filing of bankruptcy that the Contractor may undergo during the term of this Agreement. The failure of the Contractor to disclose any change of more than 50% of its ownership and/or filing of bankruptcy within 5 days of said actions shall constitute a material breach of this Agreement.
- 17.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to NHA within the time periods required herein.
- 17.5 **Confidentiality.** The Contractor, in connection with performing his/her services hereunder, will have access to or may be provided certain confidential information concerning NHA and agrees that any information concerning the finances, accounting practices, business, client, client lists, property information, client data, records of NHA or any other information which a reasonable person could conclude that should remain confidential (collectively Confidential Information), will not be disclosed to any party and without limitation, any employee of NHA or any client or potential client of NHA at any time, except for the Contractor's legal counsel, accounts, or financial advisors, who will also hold such Confidential Information in confidence. The Contractor acknowledges that the information is being provided with the sole understanding that all Confidential Information will remain confidential and will be held in the strictest confidence. The Contractor further acknowledges and agrees that any disclosure of Confidential Information, whether intentional or inadvertent, may harm NHA. NHA will have the right to enforce this Agreement by specific performance, as well as hold the Contractor liable for any damages caused by any disclosure of any Confidential Information, whether intentional or inadvertent. The Contractor acknowledges and agrees that Contractor has received valuable consideration for the entering into this Agreement and agrees to be bound all its terms and conditions. This Agreement will be binding on the Contractor and any attorney, accountant, financial advisor who also may be provided Confidential Information.

ATTACHMENT G (SAMPLE CONTRACT)

18. NO THIRD-PARTY RIGHTS

This Agreement shall not be construed as creating any right of any third party to enforce any provision hereof or to assert any claim against NHA.

19. ENTIRE AGREEMENT

All parties agree, understand, and acknowledge that this written Agreement, along with the heretofore identified attached documents that have been incorporated by reference, constitute the entire agreement of all parties. Neither party is responsible for, nor bound by, any terms or conditions not contained herein.

20. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Accordingly, it shall not be necessary for all parties to sign the same signature page or pages for this Agreement to be binding on all parties or in making proof of this Agreement or its terms to account for more than one such counterpart with the signature of any party. The parties agree that this Agreement shall be subject to the Electronic Signature in Global and National Commerce Act of 2000 and the Alabama Uniform Electronic Transactions Act, that this Agreement may be signed via facsimile, e-mail, PDF, electronic signature or other electronic means or transmission, and that any such electronic signature appearing on a facsimile, e-mail, PDF or other electronic record of this Agreement shall be the same as a handwritten signature by the party on this Agreement for purposes of validity, enforceability and admissibility.

IN WITNESS THEREOF, the parties have caused this instrument to be executed by their duly authorized representative on the date shown herein.

[REDACTED]

NEWBERRY HOUSING AUTHORITY

By: _____

By: _____

Jessica M. Holcomb

Title: _____

Title: Executive Director

Date: _____

Date: _____



General Conditions for Non-Construction Contracts

Section I — (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(v) The prohibition does not apply as follows:

-
- (1) Agency and legislative liaison by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.
- (b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
- (c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:
- (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
- (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:
- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
- (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
- (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.
- (2) Professional and technical services.
- (a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-
- (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
- (i) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.
- (iii) Selling activities by independent sales representatives.
- (c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:
- (i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
- (ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
- (e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.
-

16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

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

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

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

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

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

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

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

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

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

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

17. Equal Opportunity for Workers with Disabilities

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

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

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

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

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

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

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

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

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

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

23. Procurement of Recovered Materials

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

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

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

Certification of Payments to Influence Federal Transactions

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

Public reporting burden for this information collection is estimated to average 30 minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information requested is required to obtain a benefit. This form is used to ensure federal funds are not used to influence members of Congress. There are no assurances of confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157.

Applicant Name

Program/Activity Receiving Federal Grant Funding

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

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

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

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> : Congressional District, if known:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, <i>if applicable</i> : _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

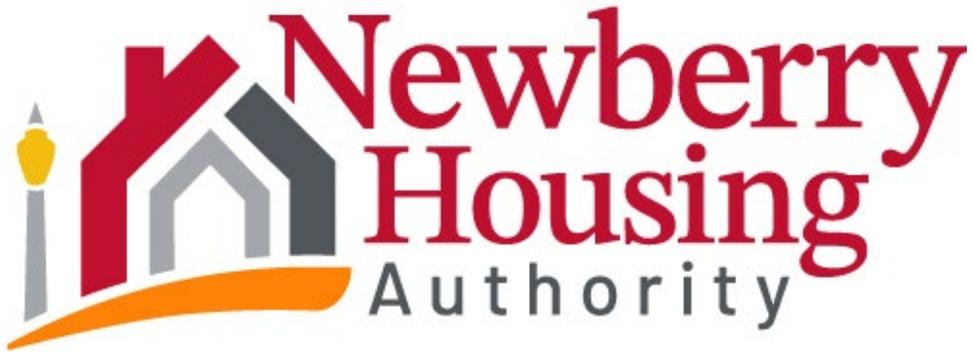
INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.



AGENCY PROFILE OF PROPERTIES

Bethlehem Gardens Apts. (PH)

13 Buildings

60 Units

1 - 4 bedrooms

Year Built: 1972

Julian E. Grants and E Gordon Able Homes (PH)

122 Buildings

255 Units

0-5 bedrooms

Year Built: 1974

Vincent Place (HOME)

3 Buildings

12 Units

1 Bedroom

Year Built: 2004