

Contract No. C15008
Procurement and Contracting Consulting Services
Between the Agency and Housing Agency Procurement Assistance

INTRODUCTION

This contract by and between the Housing Authority of the City of Port Arthur (hereinafter “the Agency”), and Housing Agency Procurement Assistance, (hereinafter “the Contractor”) is hereby entered into this 22nd day of June, 2015.

Services pursuant to this contract shall begin on the 22nd day of June, 2015, and shall end on the 21st day of June, 2016, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. Unless otherwise detailed herein, all references to “days” shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term “herein” is referred to, such refers to this contract form, the appendices and all listed attachments.

1.0 Definitions.

- 1.1 Contracting Officer (CO).** The Agency Contracting Officer, typically the Agency Executive Director, but may be another person delegated such authority by the ED.
- 1.2 Executive Director (ED).** The Agency Executive Director.
- 1.3 Housing Authority.** Any reference herein or within any Appendix to the “Housing Authority” shall be interpreted to mean the same as the Agency.
- 1.4 Request for Proposals (RFP).** A competitive solicitation process conducted by the Agency wherein award was completed to the top-rated responsive and responsible proposer.

2.0 Services and Payment.

- 2.1 Scope of Services.** The services provided pursuant to this contract generally consist of those services for the Agency as described herein and within the Appendices. Said services shall be provided on the dates and times determined by the Agency at the designated Agency community and facilities. In addition, the Agency shall retain the right to, at any time during the ensuing contract period, implement and/or enforce any item issued as a part of RFP No. P15008.
- 2.2 Provisions of any and all Work (Task Orders).** The Contractor shall not begin any additional work (other than that already detailed herein) without the receipt of a completed Contract Task Order from the authorized Agency representative. This Task Order may take the form of an e-mail.
- 2.3 Cost/Value of Services.**
 - 2.3.1 Contract Value.** The current total Not-To-Exceed (NTE) value of this contract is:

\$27,000.00

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

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revision of this amount by written change order. Further, the Agency reserves the right to amend this amount (increase/decrease) at any time during the ensuing contract period(s) if the Agency determines doing so is in its best interests.

- 2.4 Renewal Options.** This contract is initially executed for the period of 1 year with the option, at the Agency's discretion, of 4 additional one-year option periods, for a maximum total of 5 years.
- 2.5 Time Performance.** The Contractor will complete each assigned task as assigned by the Agency.
- 2.6 Billing Method.**
- 2.6.1** To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

Agency Administrative Office
Attention: Alyce Williams
Purchasing Office
920 DeQueen Blvd
Port Arthur, TX 77640

- 2.6.2** At a minimum, the invoice shall detail the following information:
- 2.6.2.1** Unique invoice number;
 - 2.6.2.2** Contractor's name, address and telephone number;
 - 2.6.2.3** Date of invoice and/or billing period;
 - 2.6.2.4** Applicable Contract No.;
 - 2.6.2.5** Applicable Purchase Order No.;
 - 2.6.2.6** Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report);
 - 2.6.2.7** Task Order, approved by the Agency Executive Director; and
 - 2.6.2.8** Total dollar amount being billed.
- 2.6.3** The Agency will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Contractor complies with the applicable provisions of this contract.

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- 3.0 Agency's Obligations.** Pursuant to this contract, the Agency agrees to provide the specific services detailed herein and also shall be responsible for the following:
- 3.1** The Agency agrees to not provide to the Contractor any Task Order assigning work to the Contractor without the prior approval of the ED.
- 4.0 Contractor's Obligations.** Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:
- 4.1 Supervision and Oversight.** The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel that are assigned to the Agency properties pursuant to this contract.
- 4.2 Qualified Personnel.** The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its proposal or as provided by the Contractor during the Contractor's normal conduct of business.
- 4.3 Compliance with Federal and State Laws.** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.
- 4.4 Insurance Requirements.**
- 4.4.1 Indemnity.** The complete indemnity requirements are detailed within Section 11.19 herein.
- 4.4.2 Insurances.** In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:
- 4.4.2.1 General Liability Insurance.** An original certificate evidencing General Liability coverage, naming the Agency as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the Agency as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000, 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 \$5,000;
- 4.4.2.2 Professional Liability Insurance.** An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000), with a commercially reasonable deductible, with a maximum deductible amount of \$5,000;

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- 4.4.2.3 **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 \$50,000/\$100,000 and medical pay of \$5,000.
- 4.4.2.4 **Worker's Compensation Insurance.** Worker's compensation coverage evidencing carrier and coverage amount.
- 4.4.2.5 **Certificates/Endorsements.** The Contractor shall provide to the Agency with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the Agency as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof. Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the Agency:

Agency Administrative Office
Attention: Alyce Williams
Purchasing Office
920 DeQueen Blvd
Port Arthur, TX 77640

- 4.5 **Licensing.** The Contractor shall also provide to the Agency a copy of any required State Contractors License. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.
- 4.6 **Financial Viability and Regulatory Compliance.**
 - 4.6.1 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.
 - 4.6.2 The Contractor agrees to promptly disclose to the Agency any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the Agency in writing within 5 days of such notification received will constitute a material breach of this contract.
 - 4.6.3 The Contractor further agrees to promptly disclose to the Agency any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more

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than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.

4.6.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to Agency within the time periods required herein.

4.7 Confidentiality. The Contractor, in connection with performing his/her services hereunder, will have access to or may be provided certain confidential information concerning the Agency and agrees that any information concerning the finances, accounting practices, business, client, client lists, property information, client data, records of the Agency 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 the Agency or any client or potential client of the Agency 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 that any disclosure of the Confidential Information, whether intentional or inadvertent, may harm the Agency. The Agency will have the right to enforce this Contract 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 agrees that he has received valuable consideration for the entering into of this Contract and agrees to be bound all of its terms and conditions. This Contract will be binding on the Contractor and any attorney, accountant, financial advisor who also may be provided Confidential Information.

5.0 Modification. This contract shall not be modified, revised, amended or extended except by written addendum, preferably executed by both parties, but the Agency shall retain the right to issue a unilateral addendum (pursuant to HUD regulation, the Contractor shall not have the same right).

6.0 Severability. The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.

7.0 Applicable Laws.

7.1 Compliance with Federal and State Laws. All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

7.2 Jurisdiction of Law. The laws of the State of Texas shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Jefferson County, Texas, is the appropriate forum for any action relating to this contract. Should any party hereto retain counsel for the

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purpose of initiating litigation or arbitration to enforce, prevent the breach of any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such prevailing party. This contract may be signed in counterparts.

8.0 Notices, Invoices and Reports.

- 8.1** All notices, reports and/or invoices submitted to the Agency by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the Agency:

Agency Administrative Office
Attention: Alyce Williams
Purchasing Office
920 DeQueen Blvd
Port Arthur, TX 77640

or if appropriate, e-mailed to: alyce.williams@pahousing.org.

- 8.2** All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

Housing Agency Procurement Assistance
Attention: Michael S. Gifford
2308 Flower Spring Street
Las Vegas, NV 89134

or, if appropriate, e-mailed to: gifford52@yahoo.com.

9.0 Disputed Billings (Charges).

- 9.1 Procedures:** In addition to the procedures detailed within Clause No. 7 of Contract Appendix No. 1, form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the Agency disputes any portion of its billing(s), the Agency shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

9.1.1 The Agency's representative shall, within 10 days after the Agency'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.

9.1.2 If such dispute cannot be resolved by the Contractor's response, within 10 days after such notification is given, the CO and the Contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.1.3 If the CO and the Contractor's representative are unable to resolve the dispute through such discussion within 10 days, the Agency shall, within 10 days thereafter, either:

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- 9.1.3.1 Pay the disputed charges and reserve the right to submit the matter to the appropriate District Court in the State of Texas;
- 9.1.3.2 Not pay the disputed charge and submit the matter to the appropriate district court in the State of Texas;
- 9.1.3.3 Not pay the disputed charge and allow the Contractor to submit the matter either to the appropriate District Court in the State of Texas.

9.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the Agency, the Agency shall pay the Agency's receipt of the decision. If the decision is in favor of the Agency, the Contractor will either:

- 9.1.4.1 Clear the amount which is ordered from the Agency account; or
- 9.1.4.2 Repay to the Agency the amount ordered.
- 9.1.4.3 Either option shall be completed within 10 days after the Contractor's receipt of the arbitrator's decision.

10.0 **24 CFR 85.36(i), Procurement.** Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the Agency and the Contractor each agree to comply with the following provisions:

10.1 **Remedies for Contractor Breach.** Pertaining to contract-related issues, it is the responsibility of both the Agency 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 Agency 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 Agency 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 Agency shall retain the right to, if conditions warrant, require the Contractor to respond in a shorter period of time). Further, the Agency shall, at a minimum, employ the following steps in dealing with the Contractor as to any performance issues:

10.1.1 If the Contractor is in material breach of the contract, the Agency may promptly invoke the termination clause detailed within Section No. 3 of Contract Appendix No. 1, form HUD-5370-C (01/2014), *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.

10.1.2 Prior to termination, the Agency 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

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probation, thereby giving the Contractor a certain period of time to correct the deficiencies or potentially suffer termination. The Agency 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 Agency's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the Agency's alleged incorrect action(s).

- 10.1.3** After termination, if the Contractor does not agree with the Agency'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 Agency's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the Agency's alleged incorrect action(s).
- 10.1.4** The response to any protest received shall be conducted in accordance with Section No. 4.0 of the *Instructions to Proposers and Contractors* document.
- 10.2 Termination for Cause and Convenience.** As detailed within Clause No. 3 of Contract Appendix No. 1, form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, attached hereto.
- 10.3 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).
- 10.4 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).
- 10.5 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 to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.6 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).

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- 10.7 Reporting.** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 10.8 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.
- 10.9 Copy Rights/Rights in Data.** In addition to the requirements contained within Contract Appendix No. 1, form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the Agency has unlimited rights to any data, including computer software, developed by the Contractor in the performance of the contract specifically:
- 10.9.1** Except as provided elsewhere in this clause, the Agency 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.
- 10.9.2** 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.
- 10.9.3** For data first produced in the performance of this contract, the Contractor may establish, without prior approval of the CO, 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 Agency 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 Agency.
- 10.9.4** 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 Agency a license of the same scope as identified in the preceding paragraph.

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- 10.9.5** The Agency 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 are improperly marked, the Agency may either return the data to the Contractor, or cancel or ignore the markings.
- 10.9.6** The Contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the Contractor's obligations under this contract.
- 10.9.7** 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 Agency 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.
- 10.9.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the Agency 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 Agency 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.
- 10.10 Access to Records.** Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor Agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 10.11 Record Retention.** Both parties hereby guarantee retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- 10.12 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).

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10.13 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).

11.0 Additional Considerations.

11.1 Right of Joinder.

11.1.1 Any political subdivision within the State of Texas (or any other jurisdiction within the United States) may be granted the privilege of joining the awarded contract, only at the option of the Contractor. If the Contractor so grants such a privilege, the terms and conditions of the RFP documents, including the ensuing contract, may be passed on to the joining political subdivision by the Contractor.

11.1.2 The Contractor shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the Contractor allows another political subdivision to join the Agency contract, it is expressly understood that the Agency shall in no way be liable for the joining political subdivision obligations to the Contractor in any manner whatsoever.

11.2 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.

11.3 Funding Restrictions and Order Quantities. The Agency reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the Agency, if:

12.3.1 Funding is not available;

12.3.2 Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

12.3.3 The Agency's requirements in good faith change after award of the contract.

11.4 Local, State, and/or Federal 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 Agency or the proposers at the time of the proposal 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 RFP shall reflect all costs required by the Contractor to procure and provide such necessary permits.

11.5 Taxes. All persons doing business with the Agency are hereby made aware that the Agency is exempt from paying Texas State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.

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- 11.6 Government Standards.** It is the responsibility of the 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 Jefferson County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Contractor 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 Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 11.7 Freight on Bill and Delivery.** All costs submitted by the 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.
- 11.7.1** The Contractor 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 Contractor. Upon default, the Contractor agrees that the Agency may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.
- 11.8 Backorders.**
- 11.8.1** The CO must be notified in writing by the Contractor within 10 days of any and all backordered materials and/or any incomplete services; and the estimated delivery date.
- 11.8.2** Unless otherwise stipulated in the contract, any order that will take more than a maximum of 10 days past the original agreed upon delivery date, may at the option of the Agency, be canceled and ordered from another source, if, in the opinion of the CO, it is in the best interests of the Agency to do so.
- 11.9 Work on Agency Property.** If the Contractor's work under the contract involves operations by the Contractor on Agency 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 the Agency's negligence, shall indemnify the Agency, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
- 11.10 Official, Agent and Employees of the Agency 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 Agency 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.

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- 11.11 Subcontractors.** Unless otherwise stated within the RFP documents, the Contractor 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 CO.
- 11.12 Salaries and Expenses Relating to the Contractors Employees.** Unless otherwise stated within the RFP documents, the Contractor 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 Contractor 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.
- 11.13 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 reasonable attorneys' fees. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 11.14 Independent Contractor.** Unless otherwise stated within the RFP documents or the contract, the Contractor 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.
- 11.15 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.
- 11.16 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 in limitation of any other remedy, right, obligation or agreement of either party.
- 11.17 Time of the Essence.** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 11.18 Limitation of Liability.** In no event shall the Agency be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.
- 11.19 Indemnification.**
- 11.19.1** The Contractor shall indemnify, defend, and hold the Agency (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or

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(2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with the "Texas Industrial Insurance Act," or any other similar law, ordinance, or decree; or (4) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the Agency against any loss or damage which was specifically caused by the Agency providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.

11.19.2 In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the Agency, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the Agency. If the Contractor shall fail to do so, the Agency shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

11.19.3 Any money due to the Contractor under and by virtue of this contract, which the Agency believes must be withheld from the Contractor to protect the Agency, may be retained by the Agency so long as it is reasonably necessary to ensure the Agency's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the Agency provided, however, neither the Corporation's payments shall not be withheld, and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the Agency from any potential claims.

11.19.4 The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

11.20 Lobbying Certification. By execution of this contract with the Agency the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

11.20.1 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 loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.

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- 11.20.2** 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 Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.
- 11.20.3** The Contractor 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.
- 11.21 Additional Federally Required Orders/Directives.** Both parties agree that they will comply with the following laws and directives, where applicable:
- 11.21.1 Executive Order 11061**, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 11.21.2 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 Agency 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. 19901 et. seq.).
- 11.21.3 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 Agency 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.
- 11.21.4 The Age Discrimination Act of 1975**, which prohibits discrimination on the basis of age.
- 11.21.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).**
- 11.21.6 HUD Information Bulletin 909-23** which is the following:
- 11.21.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;**

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11.21.6.2 Clean Air and Water Certification; and,

11.21.6.3 Energy Policy and Conversation Act.

11.21.7 That the funds that are provided by the Agency and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.

11.21.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.

11.21.9 The mention 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 part.

12.0 Section 3 Clause. As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this contract.

12.1 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.

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

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

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for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- 12.4 The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- 12.5 The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.
- 12.6 Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- 12.7 With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

13.0 Appendices.

- 13.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:
- 13.1.1 **Appendix No. 1.** form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*;
- 13.1.2 **Appendix No. 2.** The Section 3 Plan;
- 13.1.3 **Appendix No. 3.** Scope of Services, as agreed upon by negotiation between the Agency and the Contractor;
- 13.1.4 **Appendix No. 4.** The proposed fee(s) submitted by this Contractor in response to the RFP, or any negotiated fee(s) that resulted thereto, which fee(s) shall apply to each procurement that ensues from this contract.
- 13.1.5 **Inclusion by Reference.** Included by reference is any document or clause issued as a part of RFP No. P15008 that the Agency may choose to include at any time during the performance of this contract or any options

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exercised thereto by the Agency. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the Agency upon written request for such from the Contractor.


13.2 **Order of Precedence.** Please note that, in the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).

14.0 **CERTIFICATIONS.** The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

Housing Agency Procurement Assistance:

By:  Date: 6/22/2015
Michael S. Gifford, Owner

Housing Authority of the City of Port Arthur:

By:  Date: 6/22/2015
Seledonio Quesada, Executive Director

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Contract Appendix No. 1

form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*

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. 1/31/2017)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

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 \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$100,000

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 III, 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
 - (ii) 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.
- (ii) 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.

(ii) 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 agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. 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.

18. 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.

19. 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.

20. Liens

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

21. 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 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. 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.

Contract No. C15008
Procurement and Contracting Consulting Services
Between the Agency and Housing Agency Procurement Assistance

Contract Appendix No. 2

The Section 3 Plan

Contract No. C15008
 Procurement and Contracting Consulting Services
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This Section 3 Plan pertaining to the above noted contract is hereby formulated to meet the standards detailed within 24 CFR 135; most specifically within Section 135.1, to “ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, . . . be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing . . .”

Part 1.0 - Current Status as a Section 3 Business Concern

We hereby complete the following to verify our firm’s current status as a “section 3 business concern” (as detailed within 24 CFR 135.5):

1.1 Yes No : Our firm is “51 percent or more owned by section 3 residents.” If “Yes,” we hereby submit the following noted documentation to verify this claim; if “No,” proceed directly to the following Section 1.2.

[Table No. 1]

(1) Section	(2) Mark “X”* if Included	(3) Description
2.1.1	N/A	Agency resident lease
2.1.2	N/A	Evidence of participation in a public assistance program
2.1.3	N/A	Articles of Incorporation
2.1.4	N/A	Fictitious or Assumed Business Name Certificate
2.1.5	N/A	List of owners/stockholders and % of each
2.1.6	N/A	Latest Board minutes appointing officers
2.1.7	N/A	Organization chart with names and titles and brief functional statement
2.1.8	N/A	Partnership Agreement
2.1.9	N/A	Corporation Annual Report

1.2 Yes No : Our firm’s “permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents.” If “Yes,” to justify this claim we hereby submit the following documentation within Table No. 2; if “No,” proceed directly to the following Section 1.3.

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Appendix No. 2**

1.2.1 Low- and very low-income within Jefferson County, TX is defined as residents within the following income levels for FY 2015 (Median Income = \$58,700):

[Table No. 2]

Income Limit Category	(1) Person	(2) Persons	(3) Persons	(4) Persons	(5) Persons	(6) Persons	(7) Persons	(8) Persons
Very Low (50%)	\$20,000	\$22,850	\$25,700	\$28,550	\$30,850	\$33,150	\$35,450	\$37,700
Extremely Low (30%)	\$12,050	\$15,930	\$20,090	\$24,250	\$28,410	\$32,570	\$35,450	\$37,700
Low (80%)	\$32,000	\$36,550	\$41,100	\$45,650	\$49,350	\$53,000	\$56,650	\$60,300

Income Limit figures are based on FY2015 Fair Market Rent (FMR). For a detailed account of how these limits are derived, please see our associated FY2015 FMR documentation.

[Table No. 3]

(1) Classification	(2) Total Number of Current Permanent Employees	(3) Total Number of Section 3 Resident Employees
Trainees	N/A	N/A
Apprentices	N/A	N/A
Journeypersons	N/A	N/A
Laborers	N/A	N/A
Supervisory	N/A	N/A
Superintendent	N/A	N/A
Professional	N/A	N/A
Clerical	N/A	N/A
Other:	N/A	N/A

1.2.1 If there are quantities entered within the above Table No. 1, we hereby attach a listing of all employees listed within column (3), including each person's name, total annual income, and a copy of a tax return for each justifying the section 3 (low or very-low income) claim (please be sure to "black-out" all but the last 4 digits of the person(s) social security number).

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1.3 Yes No : We hereby provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

[Table No. 4]

(1) Name of Section 3 Firm Receiving the Subcontract	(2) Total Amount of Subcontract(s)	(3) Percentage the Subcontract(s) is/are of the Total Proposed Contract Amount
N/A	\$0	0%
N/A	\$0	0%

1.3.1 Attach fully executed copies of any contracts noted above.

1.3.2 Proof of the income of the ownership of the Section 3 firm receiving the subcontract, such as a copy of the last tax return for the owner(s) (please be sure to "black-out" all but the last 4 digits of the person(s) social security number).

1.4 **INSTRUCTIONS FROM THE AGENCY.** If your firm is unable to claim Section 3 status as detailed within this Part 1.0, please move on to and complete the information within the following Part 2.0.

Part 2.0 - Additional Efforts to Satisfy the Requirements of Section 3

2.1 Whereas the answer to each of the preceding issues within Part 1.0 is "No," we hereby verify as to each of the following "Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents" detailed within Appendix I of 24 CFR 135; specifically, in each case our firm (for each item marked "Will," attach a full narrative description of the work plan detailed how the noted commitment will be accomplished):

[Table No. 5]

(1) RFP Section	(2) Will	(3) Will Not	(4) Description of Commitment (if marked within the "Will" Column)
2.1.1		X	Enter into "first source" hiring agreements with organizations representing Section 3 residents.
2.1.2		X	Sponsor a HUD-certified "Step-Up" employment and training program for section 3 residents.
2.1.3		X	Establish training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

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(1) RFP Section	(2) Will	(3) Will Not	(4) Description of Commitment (if marked within the "Will" Column)
2.1.4		X	Advertise the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in §135.34) reside.
2.1.5		X	Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For the Agency, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.
2.1.6		X	Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
2.1.7		X	Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by the Agency or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.
2.1.8		X	Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.
2.1.9		X	Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
2.1.10		X	Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

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(1) RFP Section	(2) Will	(3) Will Not	(4) Description of Commitment (if marked within the "Will" Column)
2.1.11		X	Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the Agency's or contractor's training and employment positions.
2.1.12		X	Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the Agency's or contractor's training and employment positions.
2.1.13		X	Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
2.1.14		X	Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the Agency, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the Agency or contractor intends to fill.
2.1.15		X	For the Agency, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and §905.201(a)(6).)
2.1.16		X	Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions
2.1.17		X	Undertaking job counseling, education and related programs in association with local educational institutions
2.1.18		X	Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities
2.1.19		X	After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.
2.1.20		X	Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

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2.2 **Section 3 Preference Claim, Training and Employment Opportunities.** The undersigned bidder hereby claims that it will, as detailed within 24 CFR §135.34, provide such “opportunities” as denoted following; to:

[Table No. 6]

(1) RFP Section	(2) Will	(3) Will Not	(4) Description of persons such Opportunities will be provided to (if marked within the “Will” Column)
2.2.1		X	Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents).
2.2.2		X	Residents of other housing developments managed by the Agency that is expending the section 3 covered housing assistance (category 2 residents).
2.2.3		X	Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents);
2.2.4		X	Other section 3 residents (attach complete description).

2.3 **Section 3 Preference Claim, Section 3 Business Concerns.** The undersigned bidder hereby claims that it will, as a result of the contract award, and as detailed within 24 CFR §135.36, provide such “opportunities” as denoted following; to:

[Table No. 7]

(1) RFP Section	(2) Will	(3) Will Not	(4) Description of persons such Opportunities will be provided to (if marked within the “Will” Column)
2.3.1		X	Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses).
2.3.2		X	Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the Agency that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses).
2.3.3		X	HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).
2.3.4		X	Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

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2.4 **INSTRUCTIONS FROM THE AGENCY.** If your firm is unable to satisfy the requirements of Section 3 as detailed within this Part 2.0, please move on to and complete the information within the following Part 3.0.

Part 3.0 - Potential Hiring Efforts to Satisfy the Requirements of Section 3

3.1 Though our firm has a desire to satisfy the requirements of Section 3, we are unable to do so as detailed within the previous Part 1.0 or Part 2.0. Accordingly, we hereby agree to satisfy the requirements of Section 3 by one or both of the following methods:

3.1.1 **SECTION 3 HIRING GOALS.** As a result of receiving award of this contract, our firm will need to hire additional employees and we hereby commit to the following number of Section 3 New Hires:

[Table No. 8]

(1) Classification	(2) Total Number of Current Permanent Employees	(3) Total Number of New Hires that will result from award of this contract	(4) Goal: Total Number of Section 3 New Hires that the Contractor anticipates will result from award of this contract
Trainees	N/A	N/A	N/A
Apprentices	N/A	N/A	N/A
Journeypersons	N/A	N/A	N/A
Laborers	N/A	N/A	N/A
Supervisory	N/A	N/A	N/A
Superintendent	N/A	N/A	N/A
Professional	1	0	0
Clerical	N/A	N/A	N/A
Other:	N/A	N/A	N/A

3.1.2 **INSTRUCTIONS FROM THE AGENCY.** If your firm is unable to satisfy the requirements of Section 3 as detailed within the immediate preceding Part 3.1.1, please move on to and complete the information within the immediate following Part 3.1.3.

3.1.3 **INTERVIEWING AND POTENTIAL HIRING OF AGENCY RESIDENTS.** Our firm hereby agrees to, as a part of our new hire process for any open positions at any time during the period of time this contract is in effect, if our firm hires any new employees (for any position), we will:

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- 3.1.3.1** Review the Agency's listing of resident(s) who have registered, thereby declaring his/her desire to interview and accept a job;
- 3.1.3.2** In the same manner that we do with other applicants, conduct an interview with such resident(s) who have claimed experience within a certain skill set or field and have expressed a desire to interview; and
- 3.1.3.3** If, as a result of the interview and any applicable testing or checking that our firm conducts for all persons interviewing, the resident(s) qualifies for the position and passes all such testing (e.g. skills test; drug tests; credit checks; background check; etc.), we hereby agree to offer the position to the Agency resident.
- 3.1.3.4** Our firm hereby agrees that all Agency resident(s) will, during the interview process, be treated equal to and in the same manner as, any non-resident person who interviews with our firm.
 - 3.1.3.4.1** NOTE: Our firm shall have no responsibility to hire any resident who does not, as a result of the aforementioned testing and checks, qualify for the position, though the Contractor will, as detailed following, be required to report to the Agency the results of such testing and checks, and fully inform the Agency as to why the resident(s) were not hired.
- 3.1.3.5** Further, we hereby agree to inform the Agency in writing of the following within 5 days after a new employee has been hired, including the following information:
 - 3.1.3.5.1** The position title;
 - 3.1.3.5.2** The name of the person hired;
 - 3.1.3.5.3** The date the Agency listing of Agency resident(s) desiring interviews were reviewed by the Contractor;
 - 3.1.3.5.4** The name(s) of the Agency resident(s) that the Contractor contacted for an interview and the date, time, and method that such contact took place;
 - 3.1.3.5.5** The results of the contact (specifically, did or did not the interview take place; if so, when--if not, why);

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3.1.3.5.6 Pertaining to any Agency resident(s) who were not hired, the results of any tests and checking that the Contractor completed (especially any such results that prevented the resident(s) from being offered the position).

The undersigned hereby certifies that the above noted firm will abide by the terms and conditions of this Section 3 Plan as detailed herein.

COMPLETED BY (Contractor):

	<u>6/22/2015</u>	<u>Michael S. Gifford</u>	<u>OWNER</u>
Signature	Date	Printed Name	Title

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Procurement and Contracting Consulting Services
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Contract Appendix No. 3

Scope of Services

Contract No. C15008
Procurement and Contracting Consulting Services
Scope of Work
Appendix No. 3

2.0 SCOPE OF WORK. The Agency is seeking proposals from qualified entities to provide the following detailed services:

2.1 Agency Procurement and Contracting Activities - Overview: The Agency conducts procurement and contracting activities pursuant to its Procurement Policy (Attachment I hereto), which is based on a variety of applicable codes, laws, and regulations, most notably:

2.1.1 24 CFR 85.36 as amended by 2 CFR 200.317 - 200.326, Procurement; and additional Federal regulations as they become applicable;

2.1.2 HUD Handbook 7460.8 REV 2 (2/2007), Procurement Handbook for Public Housing Agencies as may be amended; and

2.1.3 Applicable State of Texas statutes.

2.1.4 Please note that there are many additional applicable codes, statutes, laws, and regulations that apply to the Agency's procurement and contracting activities and that the Agency wishes to retain a consultant that has a demonstrated practical and technical knowledge of these issues.

2.2 Agency Procurement and Contracting Staffing: The Agency has one full-time staff member (Procurement Officer) dedicated to conducting procurement and contracting activities. Additionally, other senior staff members contribute to the ongoing execution of procurement and contracting activities, including the Executive Director, Deputy Executive Director, Finance Manager, and other staff members as required.

2.3 Agency Procurement and Contracting Activities - Examples: The Agency conducts a wide variety of such activities to support its programs, including, but not limited to, the following:

2.3.1 Procurement of supplies, material, equipment, and services (construction, professional, non-professional);

2.3.2 Competitive solicitations (quotes, IFBs, RFPs, RFQs);

2.3.3 Contracts and contract administration;

2.3.4 Section 3;

2.3.5 Minority-, woman-, and resident-owned businesses;

2.3.6 Agenda items for the Board of Commissioners;

2.3.7 Procurement planning;

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Appendix No. 3

- 2.3.8 Independent Cost Estimate (ICE) and Cost and/or Price Analysis (CA/CPA);
 - 2.3.9 Ethics;
 - 2.3.10 Noncompetitive proposals;
 - 2.3.11 Specifications and Statements of Work (SOW);
 - 2.3.12 Federal Labor Standards (Construction and Maintenance); and
 - 2.3.13 Relationship of State, Local, and Federal statutes, codes and regulations.
- 2.4 **Specific Required Services:** The Contractor may be called upon by the Agency to provide, on a task order basis, the following services (please note that any or all of the following services may be performed for either staff or members of the Board of Commissioners, or both):
- 2.4.1 **Technical Assistance:** Periodically, the Agency may require the Contractor to conduct a review, either on-site or remotely, of Agency policies, procedures, practices, competitive solicitation documents, etc., and deliver to the Agency a written or verbal report, as stipulated by the Agency. All such activities shall be conducted with an awareness of applicable codes, laws, and regulations, especially those issued by HUD, and shall typically include recommendations as to how the Agency can improve its policies and procedures – in other words, how the Agency can improve its overall procurement and contracting operations and activities in order to be more compliant with law, as well as more efficient and effective.
 - 2.4.1.1 It is possible that the Agency may need technical assistance from the Contractor pertaining to HUD or OIG reviews or audits, or with related issues that become a matter of public interest (e.g., issues generated by dissatisfied contractors, clients, the press, or “activists,” etc.).
 - 2.4.2 **Mentoring:** The Agency anticipates that, following the completion of technical assistance activities, it will require the Contractor to provide mentoring services on an as-needed basis, especially to advise Agency staff as to how to comply with needed changes in the Agency’s policies, procedures, and practices.

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Procurement and Contracting Consulting Services
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Contract Appendix No. 4

Fees

**Contract No. C15008
Procurement and Contracting Consulting Services
Fees
Appendix No. 4**

Contractor's Hourly Rate	\$130.00
Travel Reimbursables	Actual documented costs

NOT-TO-EXCEED AMOUNT: \$27,000.00