



Division of Procurement and Contract Administration
1209 Admiral Street
Richmond, Virginia 23220
(804) 780-4444
www.rrha.org

Request for Proposals
Project Development Consultant
RFP# 2009-11

Issue Date: June 29, 2009
Pre-Proposal Conference: July 20, 2009 at 2:00pm
Closing Date and Time: August 3, 2009 at 2:00pm

This communication serves to apprise you and your firm of the above mentioned Request for Proposal (RFP) for Project Development Consultant. We invite you and your firm to respond to this RFP. Please review carefully all sections of the RFP, paying particular attention to the closing date and time listed above and within the body of the RFP. An optional pre-proposal conference will be held on **July 20, 2009 at 2:00pm at 1209 Admiral Street, Richmond, Virginia 23220.**

All Inquiries For Information Should Be Directed To:

Dr. MaLinda Washington, Director
Procurement and Contract Administration
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I. **PURPOSE:** The intent and purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish term contract(s) with one or more qualified contractor(s) that will be a direct advisor to RRHA to provide technical assistance, guidance and structured training to RRHA staff to facilitate timely project planning and plan execution for RRHA redevelopment projects. The Project Development Consultant services will be on an as needed basis to the Richmond Redevelopment and Housing Authority (The Authority).

II. **BACKGROUND:**

The Richmond Redevelopment and Housing Authority (RRHA) was established by City Council of the City of Richmond, Virginia (the City), in October 1940 as a political subdivision of the Commonwealth of Virginia. RRHA is responsible for operating affordable housing programs, which provides housing for eligible families, for operating redevelopment and conservation programs in accordance with the City's Master Plan and for the delivery of services to citizens of low income housing and revitalization areas through the encouragement and development of social and economic opportunities. The Board of Commissioners of RRHA is appointed by City Council.

III. **SMALL, WOMEN-OWNED, MINORITY-OWNED AND SECTION III BUSINESSES**

PARTICIPATION: It is the policy of the Richmond Redevelopment and Housing Authority to contribute to the establishment, preservation, and strengthening of small businesses, businesses owned by women, minorities and Section III businesses and individuals to encourage their participation in procurement activities. RRHA encourages contractors to provide for the participation of small businesses, businesses owned by women, minorities, and Section III businesses and individuals through partnerships, joint ventures, subcontracts, or other contractual opportunities. Submission of a plan for involvement of these types of businesses is required. By submitting a proposal, the Offeror certifies that all information provided in response to this RFP is true and accurate.

IV. STATEMENT OF NEEDS

The Project Development Consultant will be a direct advisor to the Richmond Redevelopment and Housing Authority (RRHA) to provide technical assistance, guidance and structured training to RRHA staff personnel to facilitate timely project plan development and plan execution for RRHA's redevelopment projects. The activities include, but are not limited to, the following:

- A.** The Contractor(s) shall at the direction of RRHA authorized representative, provide staff training in project development and analysis including pro forma creation, generation and analysis; LIHTC, NMTC, Renewal Energy Tax Credits and Historic Tax Credits; project management and development tracking. The Contractor(s) should provide training in a structured environment and as on-going activities related to real estate development projects. The Contractor(s) shall provide and produce necessary materials as it relates to each project assignment;
- B.** The Contractor(s) should work with RRHA staff to identify redevelopment projects;
- C.** The Contractor(s) shall develop financial projections for each redevelopment scenario;
- D.** The Contractor(s) shall be responsible for developing timelines for the redevelopment;
- E.** The Contractor(s) should assist RRHA with the solicitation and selection of developer(s) and financial partner(s) as needed;
- F.** The Contractor(s) shall be responsible for assisting RRHA with necessary HUD processes; including, but not limited to, acquisition and disposition applications to HUD's Special Application Center (SAC), Mixed-Finance application(s), Project-basing of Section 8;
- G.** The Contractor(s) shall be responsible for advising RRHA throughout the development process as needed;
- H.** The Contractor(s) should provide training to RRHA staff in regards to the development activities and other related activities as may arise from time to time, at the direction of RRHA;
- I.** The Contractor(s) should assist with the determination of RRHA's role in the development process;
- J.** The Contractor(s) shall assist with the creation of development partner selection criteria and methodology;
- K.** The Contractor(s) shall assist with the identification and utilization of a multitude of project financing options; with specific expertise regarding: LIHTC, CFFP, PHMP, CDBG, bond financing and other HUD grant opportunities, as well as, other private financing opportunities;
- L.** The Contractor(s) shall assist with the preparation of and/or preparing financial projections for each development scenario identified. Financial projections should include a range of possible financing sources that will maximize leverage of RRHA

funds. Assist RRHA staff in submitting funding application including but not limited to Low Income Tax Credits (LIHTC), Community Development Block Grant Funds (CDBG), HOME, HOPE VI, Capital Fund Financing Program (CFFP), Affordable Housing Fund (AHP) etc. Assist RRHA in preparation of submittal of Mixed-Finance Proposal for revitalization;

- M.** The Contractor(s) shall be responsible for preparing and assisting in the maintenance of a timeline for project implementation to include application deadlines, and benchmarks with respect to the project. The Contractor(s) shall update the schedule periodically in consultation with RRHA authorized representative and shall be subject to the approval of an authorized RRHA representative;
- N.** The Contractor(s) shall be responsible for providing technical assistance in selecting development partner(s) and other partners including, but not limited to lenders, equity providers, architects, engineers, planners. Assist RRHA in the procurement of private development partner(s) and in negotiating agreements with them. Provide technical assistance to RRHA staff in negotiating developer partner agreements, fees and expense reimbursements. Provide technical assistance in working with development partner(s). Evaluate and provide expert advice to RRHA staff regarding developer's pro forma, operating statements and adequacy of reserves. Analyze the developer's proposed financing strategy and structure as it relates to public housing and mixed-finance regulations and policies to insure that there are no statutory and/or regulatory incompatibilities. Provide technical assistance regarding structuring RRHA's ownership interests;
- O.** The Contractor(s) shall be responsible for assisting RRHA with submittals to HUD's Special Applications Center and Field Offices including Rental Term Sheet and Mixed Finance Proposal, Section 32, and Demolition/Disposition Plans;
- P.** The Contractor(s) shall be available throughout the redevelopment process to provide advice and guidance to RRHA for the effective completion of the Development projects;
- Q.** The Contractor(s) shall be responsible for providing training to staff of RRHA to more fully understand the programs, processes, and redevelopment activities;
- R.** The Contractor(s) shall provide other support activities as needed for each of the following development phases:
 - Strategic Planning
 - Predevelopment
 - Development
 - Construction
 - Lease and Operations
 - Project Completion and Construction Close-Out

V. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS

A. RFP RESPONSE: In order to be considered for selection, offerors must submit a complete response to this RFP. One (1) original and **(5) copies** of each proposal must be submitted to the issuing agency on or before the closing date. Offerors must also include an electronic copy with the response to the RFP. The electronic copy can be on a CD or removable mobile device. Facsimile or electronically transmitted proposals will not be accepted. Offerors assume sole and full responsibility for the timely delivery of the proposals. Late proposals will not be considered. All proposals will become a part of RRHA's official files and will not be returned to the offeror.

B. PROPOSAL PREPARATION:

1. The proposals shall be in a sealed envelope or sealed package and addressed as directed in the solicitation. The sealed envelope or sealed package should be clearly marked and identified in the lower left corner as follow:

**Request for Proposal: Closing Date August 3, 2009 at 2:00 P.M.
Project Development Consultant: RFP# 2009-11
Authorized Contact Person: Dr. MaLinda Washington, Director**

2. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in RRHA requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by RRHA. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
3. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
4. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub letter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents which cross-references the RFP requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

5. As used in this RFP, the terms "must", "shall", "should" and "may" identify the criticality of requirements. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of an Offeror to satisfy a "must" or "shall" requirement does not automatically remove that Offeror from consideration; however, it may seriously affect the overall rating of the Offerors' proposal.
6. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
7. Ownership of all data, materials, and documentation originated and prepared for RRHA pursuant to the RFP shall belong exclusively to RRHA and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the offeror must invoke the protections of § 2.2-4342F of the *Code of Virginia*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The confidential, proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute confidential, proprietary or trade secret information. The classification of an entire proposal document, line item prices, and/or total proposal prices as confidential, proprietary or trade secrets is not acceptable and will result in rejection of the proposal.
8. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to RRHA. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. RRHA will schedule the time and location of these presentations. Oral presentations are an option of RRHA and may or may not be conducted.

C. SPECIFIC PROPOSAL INSTRUCTIONS: Proposals should be as thorough and detailed as possible so that RRHA may properly evaluate your capabilities to provide the required good/services.

Offerors are required to submit the following items as a complete proposal:

1. Return the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required. Provide the names of the person(s) who will be authorized to make representations for the Offeror, their titles, addresses, and telephone numbers. Provide information that the person signing the RFP is authorized to bind the firm(s).

2. HUD Forms, Statement of Offeror's Qualification, attachments to the RFP, and other specific items or data requested in the RFP.
3. A written narrative statement to include: (1) experience of your company and its staff in providing the services described in the Statement of Needs; (2) names, qualifications and experience of personnel to be assigned to the contract; (3) resumes of staff to be assigned to the contract; (4) locations of company offices that will service this contract; (5) names and contact person for references.
4. The Offeror's ability to successfully complete a project of this scope, size and nature. Information in outlining the experience in providing the services.
5. Provide information describing your firm's structure for addressing conflicting representation requirements.
6. Provide information outlining experience in developing and successful implementing Project Plan Consulting services for other clients of like or equal size or complexity to RRHA.
7. Provide information defining similar projects, services performed, changes recommended in the operations and benefits realized by the clients.
8. Provide information outlining how specific plans for providing the services outlined including: (i) list of proposed services, (ii) how services will be performed and scheduled, (iii) Method of initiating services and (iv) proposed approach and methodology.
9. Description of any other services the Offeror may wish to propose. Examples of possible services could include the offering of other types consultant services not outlined in the solicitation.
10. Detailed Proposed Fees: Offeror(s) shall submit a complete pricing schedule of all hourly rates, fees and expenses that will be associated with performing the services outlined in the RFP.
11. RRHA's goal is to take all necessary steps to assure that qualified small, women-owned and minority-owned businesses, public housing resident-owned and Section III vendors or Section III individuals are used when possible. RRHA promotes economic opportunity by encouraging participation by small, women-owned, minority-owned and Section III vendors in RRHA contracts through subcontracting, joint ventures, or other contracting methods. Please address the actions that the Offeror will take if awarded the contract to assist and support RRHA in achieving the economic opportunity goals as described.
12. A list of at least four (4) references where the Offeror has provided the services described in the RFP. Include the organization, contact name, title, location, telephone number, and email address. Provide the information on past and current contracts.

VI. EVALUATION AND AWARD CRITERIA:

A. EVALUATION: Proposals will be evaluated based on the following criteria:

1. Qualification, Experience, Capacity and Resources (30%): The Offeror's capacity and resources to perform the services described in the RFP. The Offeror's accessibility to RRHA. The Offeror's demonstrated experience and success of the Offeror in providing the services outlined in the RFP.
2. Plan, Methodology, Approach and Strategy (30%): The Offeror's approach for the implementation and operation of the services outlined in the RFP and the portfolio of services offered. Quality and feasibility of Offeror's plans to implement the services outlined in various Development Programs for RRHA.
3. Demonstrated commitment of the Offeror to the furthering of RRHA's economic opportunity (10%). Small, Women-Owned, Minority-Owned and Section III Businesses and Individuals.
4. Proposed Pricing, Fees and Expenses (30%):

B. AWARD OF THE CONTRACT: Selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia, § 2.2-4359D*). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

VII. REPORTING AND DELIVERY INSTRUCTIONS:

The Contractor(s) shall provide the following immediately following contract signing:

- Progress report for the involvement of small, women-owned, minority-owned and Section III Businesses and Individuals as agreed to by RRHA.
- Special reports as agreed upon by the RRHA.
- Contract Administrator for the contract.
- Procedures for receiving and responding to requests.

VIII. PRE-PROPOSAL CONFERENCE

An optional pre-proposal conference will be held on July 20, 2009 at 2:00pm Eastern Standard Time at 1209 Admiral Street, Richmond, Virginia, 23220. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at the conference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to attend. Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

IX. GENERAL TERMS AND CONDITIONS

A. APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, City of Richmond and any litigation with respect thereto shall be brought in the courts of the Commonwealth. This contract is made, entered into, and shall be performed in the jurisdiction of the City of Richmond, Commonwealth of Virginia. The contractor shall comply with all applicable federal, state and local laws, rules and regulations. The Contractor shall procure any permits and licenses required for its business or the services to be provided by it hereunder.

B. ANTI-DISCRIMINATION: By submitting their proposals, offerors certify to RRHA that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia, § 2.2-4343.1E*).

In every contract over \$10,000 the provisions in 1. and 2. Below apply:

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

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- C. ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- D. IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their proposals, offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- E. DEBARMENT STATUS:** By submitting their proposals, offerors certify that they are not currently debarred by RRHA, The Commonwealth of Virginia or the Federal Government from submitting proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- F. ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to RRHA all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by RRHA under said contract.
- G. CLARIFICATION OF TERMS:** If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the Contract Officer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

H. PAYMENT:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase orders, that are to be paid for with public funds, shall be billed by the contractor at the contract price.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, RRHA shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve RRHA of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from RRHA for the

proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

(2) To notify RRHA and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from RRHA, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of RRHA.

- I. PRECEDENCE OF TERMS:** The following Terms and Conditions, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, CLARIFICATION OF TERMS, PAYMENT, HUD FORMS shall apply in all instances. In the event there is a conflict between any of the other Terms and Conditions in this solicitation, the state and federal procurement guidelines outlined in the Code of Virginia, Virginia Public Procurement Act and the HUD Handbook 7460.8 Rev 2 shall apply.
- J. QUALIFICATIONS OF OFFERORS:** RRHA may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to RRHA all such information and data for this purpose as may be requested. RRHA reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. RRHA further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy RRHA that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- K. TESTING AND INSPECTION:** RRHA reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- L. ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of RRHA. None of the required work shall be subcontracted by the contractor without the prior, written consent of RRHA, which may be withheld by RRHA in its sole discretion. The contractor shall be as fully responsible to RRHA for acts and omissions of the contractor's subcontractor's and of persons either directly or indirectly employed by its subcontractors, as the contractor is for the acts and omissions of persons directly employed by the contractor. The contractor shall include in each subcontract the contractor enters into for the provision of services under this contract, all provisions required to be included in such subcontracts established elsewhere within this contract.

- M. CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 2. RRHA may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give RRHA a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to RRHA's right to audit the contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present RRHA with all vouchers and records of expenses incurred and savings realized. RRHA shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to RRHA within thirty (30) days from the date of receipt of the written order from the RRHA. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with state and federal guidelines.
- N. DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, RRHA, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which RRHA, state and federal laws may have in place. RRHA may collect any cost incurred by RRHA due to the contractor not providing the goods or services as scheduled in accordance with the terms and conditions set forth in each project agreement. The cost may include but not be limited to revenue lost, cost to procure the goods or services to complete the project and additional administration fees associated with the project.

- O. **INSURANCE:** By signing and submitting a proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. The Offeror further certifies that the contractor and any subcontractors will maintain the insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits: Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Richmond Redevelopment and Housing Authority must be named as an additional insured and so endorsed on the policy.
4. Insurance & Indemnification:
 - (a) Contractor shall obtain and maintain during the term of this Contract professional liability insurance coverage in a minimum amount of at least \$1,000,000 with an insurance carrier having a Best "B+" or better rating or equivalent and which is authorized to conduct business in the Commonwealth of Virginia ("State"). A certificate of such insurance must be on file with RRHA prior to Contractor commencing work hereunder. At RRHA's request, Contractor shall cause RRHA to be named as an additional insured under such professional liability policy. So long as the Contract is in effect, such professional liability insurance policy shall provide for thirty (30) days' prior written notice of cancellation to RRHA. Such professional liability policy shall continue to be enforceable for a minimum period of five (5) years following termination of this Contract. Any subcontractor engaged by Contractor to perform services related to this Contract shall be required to obtain and maintain professional liability insurance in accordance with the terms set forth in this Paragraph.
 - (b) Contractor shall indemnify, hold harmless and defend RRHA, its officers, agents, servants, and employees from and against any claims, demands, losses, liabilities, damages, causes of actions and costs and expenses of whatsoever kind or nature arising from or related to:
 - the provision of services by or the failure to provide any services or the use of any services or materials furnished (or made available) by Contractor or its agents, servants or employees;
 - any conduct or misconduct of Contractor not included in the above subparagraph hereof and for which RRHA, its agents, servants or employees are alleged to be liable;

- the negligence or other actionable fault of any subcontractors; or
- claims, suits, actions or proceedings of whatsoever nature that are brought by Contractor's employees, candidates for employment and statutory employees, as determined under the State workers' compensation laws.

The execution of the Contract by Contractor shall obligate Contractor to comply with all the terms and conditions hereof. Notwithstanding any other term or condition of this Contract, Subparagraph "O" hereof shall survive the expiration or earlier termination of this Contract for a period of five (5) years.

P. ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, RRHA will publicly post such notice on RRHA website (www.rrha.org) for a minimum of 10 days. The notice is also posted in the Division of Procurement Services.

Q. DRUG-FREE WORKPLACE: During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

R. NONDISCRIMINATION OF CONTRACTORS: An Offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the Offeror or offeror employs ex-offenders unless RRHA has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, RRHA shall offer the individual, within a reasonable period of time after the date of his/her objection, access to equivalent goods, services, or disbursements from an alternative provider.

S. PERSONNEL:

1. The Contractor represents that it will secure, at its own expense, all personnel necessary to perform the Required Services hereunder. Such

personnel shall not be employees of RRHA nor shall they have any contractual relationship with RRHA. All commitments made by the Contractor in the Proposal (as modified herein) with respect to (i) the Contractor's qualifications and its satisfaction of mandatory requirements in the RFP and (ii) the number and qualifications of its personnel to be assigned to this Contract, shall be incorporated herein by this reference.

2. All the Required Services will be performed by the Contractor or under its supervision, and all personnel employed by the Contractor shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. The Contractor shall not reassign any personnel specifically designated in the Proposal to perform services under this Contract without RRHA's prior approval. The Contractor certifies that it will comply with RRHA's request for the reassignment of any employee of Contractor performing the Required Services hereunder when RRHA determines, in its reasonable opinion that such employee is not suited to work on this Contract.

T. NO WAIVER: No failure or delay by a party to insist on the strict performance of any term of this Contract, or to exercise any right or remedy consequent on a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. Neither this Contract nor any of its terms may be changed or modified, waived, or terminated (unless as otherwise provided hereunder) except by an instrument in writing signed by the party against whom the enforcement of the change, waiver or termination is sought. No waiver of any breach shall affect or alter this Contract, but each and every term of this Contract shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. The remedies provided in this Contract are cumulative and not exclusive of the remedies provided by law or in equity.

U. MINORITY BUSINESS AND SECTION III PARTICIPATION: The Contractor shall use its best efforts to comply with the commitment it has made in the Proposal relative to the participation of businesses primarily (at least 51%) owned by minorities, women or public housing residents, Section III individuals or Section III businesses, small businesses (collectively, "Disadvantaged Business Enterprises") in the performance of this Contract. By executing this Contract, the Contractor accepts the right of RRHA to appoint a RRHA employee to monitor the Contractor's compliance with the commitments and requirements of this Paragraph. The Contractor agrees to promptly submit reports to RRHA on request detailing the level of participation by Disadvantaged Business Enterprises in this Contract. RRHA shall have the right to review all relevant documents of the Contractor relating to the participation of Disadvantaged Business Enterprises in this Contract on an ongoing basis. RRHA reserves the right to evaluate the Contractor's performance with regard to the commitments and requirements of this Paragraph on an annual basis.

X. SPECIAL TERMS AND CONDITIONS

A. NOTICES:

1. Any notice, instruction, request or demand required to be given or made to the Contractor hereunder shall be deemed to be duly and properly given or made if delivered or mailed, postage pre-paid, the contractor.
2. Any notice, request, information, or documents required to be given or delivered hereunder by the Contractor to RRHA or any of its representatives, unless stated otherwise elsewhere in this Contract, shall be signed or approved in writing by the Contractor, and shall be sufficiently given or delivered if mailed, certified or registered, postage prepaid, to:

Richmond Redevelopment and Housing Authority
Purchasing Department
1209-A Admiral Street
Richmond, Virginia 23220
ATTN: Contract Officer

or to such representative or address as RRHA may designate in writing to the Contractor.

- B. AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that RRHA shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- C. OWNERSHIP OF INTELLECTUAL PROPERTY:** All copyright and patent rights to all papers, reports, forms, deliverables, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of RRHA. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to RRHA to evidence RRHA's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.
- D. PROPOSAL ACCEPTANCE PERIOD:** Any proposal in response to this solicitation shall be valid for ninety (90) days. At the end of the ninety (90) days the proposal may be withdrawn at the written request of the offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
- E. RENEWAL OF CONTRACT:** Following the initial term, this contract may be renewed by RRHA, in its sole discretion, for an additional four one-year periods not to exceed total of five years. Written notice of RRHA's intention to renew should be given approximately 60 days prior to the expiration date of each contract period.
- F. SECURITY REQUIREMENTS:** All employees of the Contractor working on this project may be required to submit fingerprinting and a fingerprint-based criminal history check conducted by RRHA at the expense of the Contractor and in accordance with the procedures applicable to RRHA's employees. The eligibility of Contractor's employees to work on this project may be contingent upon satisfactory results of the criminal history check which are subject to the standards of review applicable to RRHA's employees.

The Contractor will be required to obtain from its employees working on this project the appropriate information release forms completed and signed by each employee and giving his/her consent to the fingerprinting and criminal history check. Such completed and signed forms must be submitted by the Contractor to RRHA prior to the criminal history check. Employees of the Contractor who refuse to consent to the criminal history check will not be permitted to work on this project.

- G. SUBCONTRACTING:** Notwithstanding anything contained herein to the contrary, Contractor agrees that it shall be solely responsible for the performance of the services required hereunder and that RRHA shall be entitled to deal solely with Contractor on all matters pertaining to this Contract.

Except as otherwise provided by, none of the services covered by this Contract shall be subcontracted by Contractor without RRHA's prior written consent, which may be withheld by RRHA in its sole and unfettered discretion. Contractor shall be fully responsible to RRHA for the acts and omissions of any subcontractors, and of persons either directly or indirectly employed by any such subcontractor, as it is for the acts and omissions of persons directly employed by Contractor. Contractor shall insert in each subcontract, appropriate provisions of this Contract.

- H. TERMINATION FOR CAUSE:** Each of the following shall constitute an "Event of Default" hereunder, the occurrence of which shall give RRHA the right, at its option, to immediately terminate this Contract:

1. the occurrence of any act or omission on the part of Contractor that materially deprives it of the rights, powers, licenses, permits, and authorizations necessary for the lawful and proper conduct and operation of the services and activities required to be performed by it hereunder;
2. the filing by or against Contractor of a petition in bankruptcy, which petition is not dismissed within sixty (60) days of the filing thereof, the failure of Contractor to pay its bills when due, or the adjudication of Contractor as bankrupt;
3. the abandonment, discontinuance, or insufficient performance by Contractor, without the written consent of RRHA, of any or all of the services required to be performed by it hereunder;
4. the indictment of Contractor or any of its employees, contractors, agents or representatives for a criminal or fraudulent act committed while performing the services called for hereunder;
5. the failure of Contractor to maintain and keep in force any insurance policy required hereunder; and
6. the failure by Contractor to comply with any of the terms or conditions hereof or to timely and properly fulfill its obligations hereunder.

Upon the occurrence of an Event of Default hereunder, RRHA shall have the right to terminate this Contract by giving 90 day written notice to Contractor of such termination and specifying the reasons for termination and the effective date thereof. After the termination of this Contract due to an Event of Default, RRHA may, in its discretion, assume the work and services that were to be provided by Contractor hereunder and see that the same are completed by agreement with another party, all without liability to RRHA, and Contractor shall be liable for any additional cost incurred by RRHA in

obtaining such replacement services. Under no circumstances shall Contractor be relieved of liability to RRHA for damages sustained by RRHA after an Event of Default by Contractor hereunder, and RRHA may withhold any payments due to Contractor for the purpose of setoff until such time as the exact amount of damages incurred by RRHA are determined. If, after termination of this Contract based on an Event of Default by Contractor, it is determined that such Event of Default had not actually occurred, the termination shall be deemed to have been effected for the convenience of RRHA.

- I. **TERMINATION FOR CONVENIENCE:** Notwithstanding anything contained in this Contract to the contrary, RRHA may terminate this Contract for RRHA's convenience any time by delivering 90 day written notice thereof to Contractor. If the Contract is so terminated, in addition to RRHA's obligation to make payment of legitimate and reimbursable expenses hereunder not theretofore paid, Contractor will be paid for the services performed hereunder within 90 days of the date of termination, based on the hourly rates set forth in the Contract. Contractor acknowledges and agrees that it shall not be entitled to any other form of compensation whatsoever in the event this Contract is terminated for the convenience of RRHA.

- J. **TERMINATION NOTICE:** Upon the effective date of a termination notice issued by RRHA (whether for convenience or after an Event of Default hereunder), Contractor shall (i) promptly discontinue all services provided by it hereunder (unless the notice directs otherwise) and (ii) deliver or otherwise make available to RRHA (or its employees, agents or contractors, including any successor contractor) all documents, data, studies, summaries, reports and other such information and materials as have been accumulated or prepared by Contractor in performing its obligations hereunder, whether completed or in process, unless Contractor considers such information to be proprietary. Contractor shall advise RRHA of the general nature of all information it considers proprietary and shall provide RRHA with an explanation of why it reasonably considers the information to be proprietary. RRHA shall have the right to challenge Contractor's designation of any information as proprietary. To the extent that Contractor has not previously received compensation hereunder for its preparation of such documents, Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents. Contractor shall provide usual and customary professional courtesy and responses to any inquiries made by a successor Contractor employed by RRHA, all without additional charge to RRHA or such successor Contractor. Any disputes related to the termination by RRHA of this Contract (whether for convenience or after an Event of Default hereunder) shall be resolved in accordance with the procedures outlined in the RFP.

- K. **INTEREST OF MEMBER OF RRHA & LOCAL PUBLIC OFFICIALS:** The following persons shall not have any personal interest, direct or indirect, in this Contract during his/her tenure or for one year thereafter: (a) members of the RRHA Board; (b) members, officers, employees or agents of RRHA; (c) any public official of the City of Richmond ("City") who exercises any functions or responsibilities with respect to RRHA; or (d) no member of the City Council.

- L. **CONTRACT EXECUTION REQUIREMENTS:** Upon notice of the award of an agreement pursuant to this RFP, the successful Offeror shall sign the final contract document, upon receipt thereof from the Contract Officer and furnish the insurance

documents required by the Terms and Conditions included in this RFP. The Offeror shall furnish RRHA with the signed agreement and the required insurance documents. Once RRHA has received the signed agreement and insurance documents from the successful Offeror, the RRHA's representatives will then sign the agreement.

M. ADVERTISING: The Offeror shall not use any indication of its services to RRHA for commercial or advertising purposes without prior approval from RRHA.

N. COMPLIANCE WITH LAWS: The Offeror shall comply with the provisions of any statutes, ordinances, rules, regulations, or other laws enacted or otherwise made effective by any local, state, or federal governmental entity which may be applicable to the performance of this Agreement and shall obtain all necessary licenses and permits there under.

O. GOVERNING LAW: All issues and questions concerning the construction, enforcement, interpretation and validity of this Agreement, or the rights and obligations of RRHA and the Offeror in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.

XI. METHOD OF PAYMENT: Invoices for will be paid as agreed upon during negotiations for each project. Additionally, any fees will be negotiated and paid as agreed upon during negotiation.

XII. PRICING SCHEDULE (COST PROPOSAL):

It is important for RRHA to gain a reasonably clear understanding of your firm's total rates for the services described in the RFP. Provide detailed pricing information for all expenses to include all charges.

The pricing information should include the Pricing Schedule and any other fees and costs associated with providing the services outlined in the proposal. All additional costs should be included in your price proposal.

ATTACHMENT B

EMPLOYMENT PROFILE

Name of Firm: _____

Full Time Employees

Number of Minority Blacks _____

Number of Minority (Other) _____

Number of Whites _____

Number of Males _____

Number of Females _____

Definitions

1. Full Time – All officers, partners, associates, professionals, and employees who are engaged in the activities of the company/firm on a full-time basis or considered by the company/firm to be in a full-time status.
2. Minority (Black) – All persons having origin in any of the black racial groups of Africa.
3. Minority (Other) – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race; and persons having origins in any of the original Peoples of the Far East – Southeast Asia, the Indian Subcontinent, or the Pacific Islands (includes, for example, China, Japan, Korea – the Philippine Islands and Samoa); all persons having origin in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.
4. White – All persons having origin in any of the original peoples of Europe, North Africa, or the Middle East.

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

Certifications and Representations of Offerors

Non-Construction Contract

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

- (a) is, is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) is, is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) is, is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

4. Organizational Conflicts of Interest Certification

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:
- (i) Award of the contract may result in an unfair competitive advantage;
 - (ii) The Contractor's objectivity in performing the contract work may be impaired; or
 - (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.
- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.
- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

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. 3/31/2010)

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.

**Minority Business and Section III
Participation Commitment Form**

Project Name:

Project Development Consultant

It is the policy of Richmond Redevelopment and Housing Authority (“RRHA”) to encourage Minority and Section III participation in all contracts. To implement this policy, RRHA shall encourage Minority and Section III participation through **subcontracting**, or other methods in contracting. You must complete this form, indicating the percentage of this Contract that **will be subcontracted to Minority and Section III Businesses and Section III Individuals**.

Minority Participation:

For the purpose of this commitment, the term “Minority Business” means a business at least 50 percent of which is owned and controlled by minority group members or, in the case of a publicly-owned business, at least 51 percent of the stock of which is minority owned, and the business is controlled by minority group members. For the purpose of the preceding sentence, “Minority Group Members” are citizens of the United States who are African-American, Hispanics, Asians, Pacific Islanders, and American Indians.

Please indicate the percentage of minority business participation for this project. This refers to the percentage of the total dollar value of the Contract that will be subcontracted to minority firms.

_____ percent *

To be considered a “minority business”, the business must be so certified by the Commonwealth of Virginia Department of Minority Business Enterprise, City of Richmond or a federal agency that certifies business as a minority business.

Section III Participation:

For the purpose of this commitment, the term “Section III” refers to Section III businesses and Section III individuals based on the definitions below:

Definitions:

Low Income Person as used above means a **resident of the Richmond Metropolitan Area** at or below 80% of medium income as shown in the Income Table below.

Economic Opportunities as used above means contracts with (a) businesses owned 51% or more by residents of Richmond metropolitan area at or below 80% of medium income or (b) business whose full-time employees are made up of at least 30% residents of Richmond metropolitan area at or below 80% of medium income. Such businesses are referred to as *Section III Business*.

Income Table

This table shows 80% of median income for Richmond Metropolitan Area for the designated number of persons in a family.

<u>1 person</u>	<u>2 persons</u>	<u>3 persons</u>	<u>4 persons</u>
\$38,450	\$43,950	\$49,450	\$54,950
 <u>5 persons</u>	 <u>6 persons</u>	 <u>7 persons</u>	 <u>8 persons</u>
 \$59,350	 \$63,750	 \$68,150	 \$72,550

To be considered a “Section III business or Section III individual”; the business must provide documentation supporting the income level of the employees and individuals.

Please indicate the percentage of Section III participation for this project. This refers to the percentage of the total dollar value of the Contract that will be available for Section III opportunities.

_____ percent *

*RRHA will consider Minority and Section III participation in awarding this Contract. RRHA reserves the right to approve or disapprove any subcontractor list or individual.

FAILURE TO COMPLETE THIS FORM MAY RESULT IN YOUR BID/OFFEROR BEING DECLARED NON-RESPONSIVE THUS ELIMINATING YOUR FIRM FROM CONSIDERATION FOR THIS PROJECT.

The undersigned hereby certifies that he or she has read the terms of this commitment form and is authorized to bind the prospective bidder/offeror to the commitment herein set forth.

Firm’s Name

Name of Authorized Officer – printed

Date

Name of Authorized Officer – signed

CERTIFICATE OF NONSEGREGATED FACILITIES
(for Advertised Projects)

The Bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract. As used in the certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed Subcontractors for specific time periods) he will obtain identical certifications from proposed Subcontractors prior to the award of Subcontract exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

Date _____, 20__

(Name of Bidder)

Official address:

By: _____

Title: _____

SECTION III CLAUSE

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

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

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

D. **The contractor agrees to include this section 3 clause in every subcontract (\$100,000 or more)** subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

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

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

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

Definitions

Low Income Person as used above means a **resident of the Richmond Metropolitan Area** at or below 80% of medium income as shown in the Income Table below.

Economic Opportunities as used above means contracts with (a) businesses owned 51% or more by residents of Richmond metropolitan area at or below 80% of medium income or (b) business whose full-time employees are made up of at least 30% residents of Richmond metropolitan area at or below 80% of medium income. Such businesses are referred to as *Section III Businesses*

Applicability

This contract plus all subcontracts at any tier of \$100,000 or more.

Reporting

The contractor will be required to report all new hirees employed as a result of this contract and to determine and report whether or not any of these **new** hirees may be defined as *low income persons* based upon the above stated definition and by employing the income table below. For sub-contracts of \$100,000 or more the contractor will be responsible for requiring the subcontractor to (a) report all new hirees employed as a result of this contract and to determine and report whether or not any of these **new** hirees may be defined as *low income persons* based upon the above stated definition and by employing the income table below and (b) determine whether or not the sub-contractor himself may be defined as a *low income person* or a *Section III Business* based on the above stated definitions and income table below. These requirements apply to any tier of subcontract.

Income Table

<u>1 person</u> \$38,450	<u>2 persons</u> \$43,950	<u>3 persons</u> \$49,450	<u>4 persons</u> \$54,950
<u>5 persons</u> \$59,350	<u>6 persons</u> \$63,750	<u>7 persons</u> \$68,150	<u>8 persons</u> \$72,550

SECTION III COMPLIANCE FORM

Contractor

Address

City, State, Zip Code

Reference: _____

Subject: Statement of compliance with Section III Clause

Gentlemen:

In accordance with the provisions stated herein I will make a "good faith effort" to provide opportunities for the training and employment to qualified low income residents in the area in which this project is located (Richmond Metropolitan Area). This clause and reporting requirements will be incorporated into any lower tier contracts.

Attached is the report form to disclose the number of positions available for employment. We will comply and seek out the low income person for any open positions. Notices shall be posted in conspicuous places available to employees and applicants for any open positions.

Sincerely submitted,

Typed Signature and Title

Signature

Date signed

STATEMENT OF OFFEROR'S QUALIFICATIONS

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Offeror may submit any additional information they desire.

1. Name of Offeror.
2. Permanent main office address, including City, State, Zip Code, Phone Number and Fax Number.
3. When organized?
4. If incorporated, where incorporated?
5. How many years have you been engaged in business under your present firm or trade name?
6. Contracts on hand: (Schedule these, showing gross amount of each contract and the appropriate anticipated dates of completion). See attached
7. General character of work performed by your company.
8. Have you ever failed to complete any work awarded to you? If so, where and why?
9. Have you ever defaulted on a contract? If so, where and why?
10. List the more important contracts recently completed by you, stating approximate gross cost for each, and the month and year completed.
11. List your major equipment available for the performance of this Contract.
12. Describe your experience in work similar in nature to this project.

13. List the background and experience of the principal members of your organization including the officers.

14. You are required, upon request, to fill out a detailed financial statement and furnish any other information that may be required by Richmond Redevelopment and Housing Authority (“RRHA”). Do you agree to provide such information upon request?

15. (a) Have you ever been a party to or otherwise involved in any action or legal proceedings involving matters related to allegations of discrimination based on race, color, nationality, sex, or religion? If so, give full details.

(b) Have you ever been accused of discrimination based upon race, color, nationality, sex, or religion in any action or legal proceeding, including any proceeding related to any Federal Agency?. If so, give full details.

16. The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by RRHA in verification of the recitals comprising this Statement of Offeror’s Qualifications.

Dated at this ____ day of _____, 20_____.

(Name of Contractor)

By: _____

Title: _____

State of _____)
) ss.
 County of _____)

_____, being duly sworn, deposes and says he is _____
 (Title)
 of _____ and that the answers to the
 (Name of Organization)

foregoing questions and all statements therein contained are true and correct.

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

My Commission Expires _____

NON-COLLUSIVE AFFIDAVIT
For Advertised Bids

State of _____)
County of _____)

_____, being first
duly sworn, deposes and says that:

(1) He is _____
(Owner, Partner, Officer, Representative or Agent)
of _____, the Bidder that has submitted
the attached bid;

(2) He is fully informed respecting the preparation and contents of the attached bid and
of all pertinent circumstances respecting such bid;

(3) Such bid is genuine and is not a collusive or sham bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents,
representatives, employees or parties in interest, including this affidavit, has in any way colluded,
conspired, connived, or agreed, directly or indirectly with any other bidder, firm or person to submit
a collusive or sham bid in connection with the contract for which the attached bid has been submitted
or to refrain from bidding in connection with such contract, or has in any manner, directly or
indirectly, sought by unlawful agreement or collusion or communication or conference with any
other bidder, firm or person to fix the price or prices in the bid price or the bid price of any other
bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any
advantage against the Richmond Redevelopment and Housing Authority or any person interested in
the proposed contract; and

(5) The price or prices in the attached bid are fair and proper and are not tainted by any
collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its
agents, representatives, owners, employees, or parties in interest, including this affiant.

(Name)

(Title)

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

My Commission Expires _____