Invitation for Bids

LOWELL HOUSING AUTHORITY

LEASE OF ROOFTOP SPACE FOR CELL PHONE WIRELESS TRANSMITTERS

IFB 2021-4

Release Date: June 23, 2021
Question Due Date: July 9, 2021 by 3:00 PM
Bids Due: July 29, 2021 by 11:00 AM

DIRECT ALL IFB CORRESPONDENCE TO:
RITA V. BROUSSEAU, CHIEF PROCUREMENT OFFICER
LOWELL HOUSING AUTHORITY
DEPARTMENT OF FINANCE AND PROCUREMENT
RBROUSSEAU@LHMA.org
WWW.LHMA.ORG/BIDS

EQUAL HOUSING OPPORTUNITY

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Advertisement For Bids IFB # 2021-4

The Lowell Housing Authority and the Board of Commissioners, the Awarding Authority, invite sealed bids from **Vendors** for the **Lease of Rooftop Space for Cell Phone Wireless Transmitters** for the **Lowell Housing Authority** in **Lowell**, **Massachusetts**, in accordance with the documents prepared by the Lowell Housing Authority.

The Project consists of in general but is not limited to: the lease of a portion of four (4) sites for the sitting, operation and maintenance of one or more wireless communications facilities for a period of five years with a five year extension contingent upon HUD approval.

General Bids will be received until **Thursday, July 29, 2021** at **11:00 AM** and publicly opened, forthwith.

All Bids should be clearly labeled and sent to: Lowell Housing Authority, 350 Moody St., Lowell, MA 01854 **Attn: Dept. of Finance & Procurement**, and received no later than the date and time specified above and should remain valid for forty-five (45) days from bid opening.

Bid Forms and Contract Documents will be available to download at www.lhma.org/bids.

Questions must be submitted in writing before **3:00 PM, July 9, 2021,** to Lowell Housing Authority, Dept. of Finance & Procurement c/o Amanda Nichols, Chief Procurement Officer, 350 Moody St, Lowell, MA 01854.

Site Visit: Interested bidders will be able to schedule appointments to inspect and conduct testing at any of the locations by contacting Rita V. Brousseau, CPO at 978-364-5341 or at rbrousseau@lhma.org. Appointments will not be granted later than July 8, 2021.

General bidders must agree to contract with minority and women business enterprises as certified by the Supplier Diversity Office (SDO), formerly known as SOMWBA. The combined goal reserved for such enterprises shall not be less than 10.4% of the final contract price including accepted alternates. See Contractor's Affirmative Action Requirements and the State of Massachusetts Instructions to Bidders for additional information.

The LHA reserves the right to cancel the IFB, reject any or all bids and waive informalities.

END OF SECTION

INTRODUCTION

POLITICAL SUBDIVISION STATUS

The Lowell Housing Authority (the "LHA") is an autonomous, public housing authority created in 1937 as a public body politic and corporate with the City of Lowell and a political subdivision of the Commonwealth of Massachusetts. Enabling legislation is Massachusetts General Laws, chapter 121B, *et seq.* The LHA is governed by a five-member appointed Board of Commissioners, which is the LHA awarding authority.

HOUSING UNITS

The LHA owns and/or manages 3,147 units of housing comprising of: (a) 1,698 units in federal family and elderly/disabled housing developments. The HUD-aided properties are managed under an Asset Management Project model ("AMP"). The LHA has four (4) AMPs and the state-aided portfolio. (b) 198 units in state housing developments and (c) 1,251 U.S. HUD Section 8 Housing Choice Vouchers. Images of the LHA housing units may be viewed on the website: www.LHMA.org.

STAFF

The LHA currently employs approximately 98 full and part-time employees, including its central administration/management, property managers for each of the five property development areas, and facilities/maintenance staff.

FUNDING

The LHA receives both federal and state grants that supplement its operational expenditures and support capital improvements. Annual operational spend is approximately $32M with state and federal capital expenditures of approximately $4M.

IFB INFORMATION AT A GLANCE:

Agency Contact Person:	Rita V. Brousseau, Chief Procurement Officer Tel: 978-364-5341 E-Mail: rbrousseau@lhma.org 350 Moody St, PO Box 60, Lowell, MA 01854 TDD/TTY: 1-800-545-1833 x178
How to Obtain IFB Documents:	www.lhma.org/bids
IFB Issue Date:	June 23, 2021
Pre-Proposal Conference (Optional):	By Appointment no later than July 8, 2021
Deadline for Written Questions:	July 9, 2021 by 3:00 PM
How to Fully Respond to this IFB:	As instructed within Section 3 of the IFB document.
Proposal Submission Date and Time:	July 29, 2021 by 11:00 AM
Anticipated LHA Board Approval:	September 8, 2021

*Regularly scheduled LHA Board Meetings are held at the Armand P. Mercier Community Center Board Room, 21 Salem St, Lowell, MA on the second Wednesday of every month at 5:00 P.M.

1.0 GENERAL INFOMATION

1.1 LHA RESERVATIONS OF RIGHTS

Informal or Ex parte Communications. No verbal or written information which is obtained other than through this IFB or its addenda shall be binding by the LHA. With the exception of written instructions and information from the Chief Procurement Officer (CPO) or designee, no employee of the LHA is authorized to interpret any portion of this IFB or give information as to the

requirements of the IFB in addition to that contained in or amended to this written IFB document. Applicant must not make inquiry or communicate with any other LHA staff member or official (including members of the Board of Commissioners) pertaining to this IFB. Failure to submit by this requirement may be cause for the LHA to not consider an application submittal received from any Applicant who has not submitted by this directive.

Rejection & Waivers. The LHA reserves the right to reject any or all bids, waive technicalities and informalities in the solicitation process, or to terminate and cancel the solicitation process at any time, if deemed by the LHA to be in its best interests. The LHA reserves the right to reject and not consider any bids that does not conform to or meet the solicitation requirements in whole or in part, including but not limited to incomplete bids, non-specified items and/or non-requested services.

No Award. The LHA reserves the right not to award a purchase order agreement or contract pursuant to this solicitation.

Awards. The LHA shall make awards in its best interest and as required by applicable law, regulation or policy, and to correct any award erroneously made as a result of a clerical error on the part of the LHA.

Termination. The LHA reserves the right to terminate a contract awarded pursuant to this solicitation at any time for its convenience upon written notice to each contractor.

Performance. The LHA reserves the right to determine the days, hours and locations that the successful bidder(s) shall provide services called for in this solicitation.

Retention. The LHA reserves the right to retain all bids submitted and not permit withdrawal for a period of up 60 days subsequent to the deadline for receiving bids without the written consent of the LHA Contracting Officer.

No Compensation. The LHA will not compensate any potential supplier or vendor for any costs incurred in responding to this solicitation.

Participation. The LHA shall reserve the right to at any time during the solicitation or contract process to prohibit any further participation by a prospective contractor or reject any bids submitted that does not conform to any of the requirements detailed herein.

Compliance. By receipt of this solicitation each prospective bidder thereby agrees to abide by all terms and conditions listed within this document and with all attachments, and further agrees that he/she will inform the Chief Procurement Officer in writing within five-days of the discovery of any item listed herein or of any item that is issued thereafter by the LHA that he/she feels needs to be addressed. Failure to abide by this time frame shall relieve the LHA, but not the prospective bidder of any responsibility pertaining to such issue.

Good Faith. By submitting its bid, the bidder's representative certifies under penalties of perjury that this application, the bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Taxes. Pursuant to M.G.L. Chapter 62C, §49A, the prospective contractor's representative hereby certifies, under the penalties of perjury, that, to the best of his/her knowledge and belief, he/she is in compliance with all the laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Indemnification. Each bidder, at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses including attorney fees and otherwise hold harmless the LHA, and agents from any liability of any nature or kind in regard to the delivery of services.

Intellectual Property. All bids, responses, inquiries and correspondence relating to or in reference to this IFB, and all reports, concepts, data, information, charts, and other documentation submitted shall inure for use by and become the property of the LHA when received. If copyrighted material is submitted, the LHA will presume that the bidder grants limited release to the LHA in order to make scan or copy and distribute documents as necessary for official purposes and for public record requests.

No Conflicts. The bidder covenants, that (1) presently, there is no financial interest and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which would violate M.G.L. c.268A, as amended; (2) in the performance of this Contract, no person having any such interest shall be employed by the Contractor or engaged as a subcontractor by the contractor; and (3) no partner or employee of the firm is related by blood or marriage to any Board Member or employee of the Awarding Authority. *See:* https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter268A

HUD Table 5.1 *Mandatory Contract Terms for Small Purchases other than Construction* is incorporated in this IFB, see **Attachment A** and also applies to subcontractors.

Lease Terms Incorporated into IFB. The attached Sample Lease Agreement (**ATTACHMENT F**) clauses are incorporated into this IFB as part of its terms and condition requirements as well as the anticipated award and all activity there under unless otherwise amended.

1.2 PUBLIC INFORMATION, PROTECTION OF PERSONAL DATA

1.2.1. All responses, bids, related documentation and information submitted in response to this IFB are subject to the Massachusetts Freedom of Information Law, M.G.L. c.66 §10, and to M.G.L c.4 §7(26), regarding public access to such documents. Any statement submitted by the respondent that purport to reserve any confidentiality or privacy rights

in submitted responses or that are otherwise inconsistent with these statutes will be void and disregarded.

1.2.2. Proprietary Information. All bids shall be deemed to be public records within the meaning of Massachusetts General Laws Chapter 4, §7 (26). If a bidder believes that the IFB requires the disclosure of technical, proprietary, or trade secret information that the bidder is not willing to make public, it may submit such information in a separate envelope, clearly marked, which will be returned to the bidder following the award of bids. No part of a bid involving the amount of rental income that the bidder is willing to pay may be designated as confidential.

1.2.3. By submitting its response to the LHA, the Bidder agrees that the LHA shall not be liable under any circumstances for the subsequent disclosure of any materials submitted to it by Bidder pursuant to this IFB and/or in connection with any contract entered into between Bidder and the LHA as a result of the IFB process.

1.2.4. Further, any selected Bidder must recognize that in the performance of the LHA Standards Goods and Services Agreement and any Work Orders issued thereto, it may become a holder of personal data (as defined in M.G.L. c.66A) or other information deemed confidential. Bidder shall comply with the laws and regulations relating to confidentiality and privacy, including any rules or regulations of the LHA.

1.3 RENT

Rent payments received by LHA must be accompanied by a breakdown of rent per property, per month.

2.0 DESCRIPTION OF REQUIRED SERVICES

The Lowell Housing Authority (LHA) is seeking lessee bids for the lease of a portion of four (4) sites for the sitting, operation and maintenance of one or more wireless communications facilities. Any lease(s) awarded pursuant to this IFB are subject to annual appropriation, HUD and LHA Board approval.

2.1 SUMMARY

LHA seeks bids for locating wireless communications equipment on the rooftops of the locations listed below. Proposed equipment will not be visible from the street view of the buildings. Storage space for related equipment is available on the rooftops. No structures may be erected on LHA property; rather, all equipment must be contained to the rooftops of each building. In addition, any cabling on the outside of the building must be properly concealed. Copies of the topographic pictures showing the locations of each property is included in this IFB in **Exhibit 1**. Portions of the Summer Street and Moody Street properties are currently leased and occupied by Sprint and the lease has expired.

1. 350 Moody Street
2. 117-137 High Street
3. 50 Summer Street
4. 65 Summer Street

2.2 SITE INSPECTION, TESTING

LHA makes no representations of any kind with respect to the site, its adequacy to support the equipment, or the appropriateness of its use as a site for wireless

communication equipment site. Interested parties will be permitted to inspect the HA plans, specifications and other records relating to the site and will have access to the site to make inspections, perform engineering surveys and tests at their own expense, subject to prior approval of LHA and further subject to the rights of existing lessees regarding the security of their facilities.

2.2.1 Schedule Appointments: Interested bidders will be able to schedule appointments to conduct testing at any of the locations by contacting Rita V. Brousseau, CPO at 978-364-5341 or at rbrousseau@lhma.org. Appointments will not be granted later than July 8, 2021.

2.2.2 Insurance: A Certificate of Insurance must be provided to LHA no less than two (2) business days in advance of the scheduled date of testing. The Certificate of Insurance should provide evidence of the following coverages:

Commercial General Liability, including Owner's and Contractor Protective Liability, in the amount of $5 million dollars per occurrence, $5 million aggregate.

Automobile Liability, specifying all owned, hired and non-owned vehicles with bodily injury coverage in the amount of $500,000 per occurrence, $500,000 aggregate and property damage coverage in corresponding amounts.

Workers Compensation and Employer's Liability in amounts as required by Massachusetts General Laws.

The insurance certificate must also state the dates of coverage and the location to which the coverage applies. Persons and/or companies conducting site tests will also be required to execute a hold harmless and indemnification form attached hereto as Exhibit #.

2.3 RESTRICTIONS OF USE

The Lessee shall agree that the sites leased shall be used only for the purpose of constructing, installing, maintaining, and operating telecommunications equipment and all appurtenances, including separate power meter, radio/electronic/electrical equipment, connecting cables, coaxial cables, wires and associated appurtenances. Such facilities must be secured in a manner as to address any safety and aesthetic issues raised by LHA.

2.4 OTHER REQUIREMENTS

Each bid must satisfy all the submission requirements to be considered for an award. A bid which does not include all the submission requirements may be rejected as non-responsive.

2.4.1 City Ordinance and LHA Board Approval of Lease: The award of a lease(s) for the use of the four (4) properties listed in Section 2.1 of this IFB is subject to the Directives regarding Small Wireless Facility Design & Policy Guidelines of the City of Lowell, MA effective April 12, 2019 along with Section 7.6 of the City of Lowell Zoning Ordinance. Compliance with the City Ordinance will be required. A copy of the City Manager's Directive and the Zoning Ordinance are available at

https://www.lowellma.gov/DocumentCenter/View/7438/190412-Small-Cell-Design-Guidelines and https://www.lowellma.gov/DocumentCenter/View/1007/Zoning-Code-PDF?bidId=. Approval of an award of a lease(s) is subject to LHA's Board of Commissioners and HUD. No lease will be executed prior to these approvals.

2.4.2 Permits & Licenses: Final award of a lease(s) is contingent upon the bidder's demonstration of compliance with all federal, state and local laws, rules and regulations and obtaining any and all required permits and licenses. Lessee shall furnish a copy of their license to operate. Any such cellular communications systems' transmitters and receivers' frequencies shall not interfere with local radio, television, local and regional public safety, national defense or other similar operations.

2.4.3 Taxes: The lessee shall be responsible for making any necessary returns for and paying any and all other property taxes separately levied or assessed against the improvements constructed by the lessee on the Leased Premises.

2.4.4 Power: The lessee shall have a separate power meter installed for its electric service and the lessee shall pay all costs related to said electrical service. The cost of obtaining and maintaining such electric service to the Leased Premises shall be paid by the lessee. LHA shall cooperate with the lessee in any effort by the lessee to obtain such electric service as may be necessary in connection with the operation of lessee's wireless communication equipment.

2.4.5 Associated Costs: The lessee shall pay call costs associated with the installation, maintenance, operation and insurance of equipment and facilities. All work must be performed in a good and workmanlike manner, and in a manner that will not adversely affect the property, including, but not limited to, the structural integrity and maintenance of the property or any existing structure on the property, or in a manner that will cause any other damage to the property or structures located on or about the property.

2.4.6 Indemnity: The Lessee must agree to indemnify and hold harmless the Lowell Housing Authority from and against any and all claims, demands, actions, and causes of action resulting from the lessee's activities on LHA property, including, but not limited by, the installation and operation of equipment and facilities on the property, including all costs and attorney's fees arising from acts and/or omissions of the lessee, its agents, employees, and contractors.

3.0 BID SUBMISSION REQUIREMENTS

3.1 BID SUBMITTAL

Sealed bids shall be clearly identified on the bid envelope as "**BID # IFB 2021-4**" and include the bidder's name, address and contact telephone number. If a delivery service envelope is used to deliver the bid, the bid shall be placed in a separately sealed envelope. The LHA will not be responsible for the premature opening of any bid not properly identified, and any such bid will be rejected.

A bidder may correct, modify, or withdraw a bid by written notice received by the LHA prior to the time and date set for the bid opening. Bid modifications must be submitted as described for the original bid submission, in a sealed envelope clearly labeled, "BID # IFB 2021-4". Each modification must be numbered in sequence and must reference the original IFB.

NOTE: Packages mailed via U.S. Postal Service will be delivered to a post office box. Arrival at the LHA Executive Offices prior to the due date and time *cannot be presumed or guaranteed*. Bidders are solely responsible for timely delivery to the LHA office:

Lowell Housing Authority
Department of Finance and Procurement
350 Moody Street
Lowell, MA 01854
"BID – IFB 2021-4 DUE: (7/29/21 at 11:00 AM)"

3.1.1 Document Submission Requirements

a) A Letter of Transmittal signed by the individual authorized to negotiate for and contractually bind the bidder, stating that the offer is effective for at least forty-five (45) calendar days from the submission of bids, or until it is formally withdrawn, or a lease is executed, or this IFB is cancelled, whichever occurs first.

b) A description AND VISUAL DEPICTION OF ACTUAL EQUIPMENT of the facility the bidder intends to install, including (1) a plan showing the location of the facility, (2) a description of other structures necessary to support or contain the equipment, including (a) a list of the proposed equipment to be installed, (b) any utility or telecommunication wires or services needed to operate the facility, and (c) any security structures proposed. Detailed plans and specifications for the proposed facility are not required. If a bidder is an existing lessee that is bidding on space that it currently occupies, the description should cover both the existing facility and any changes planned as of the inception of a new lease.

c) A list of the locations of all wireless communication facilities the bidder has installed on municipal or state-owned property in Massachusetts over the past three (3) years, and the name, address and telephone number of the owner of the site(s). If the bidder has not yet installed facilities in Massachusetts, it may provide information about sites of comparable facilities which it has installed in other states.

d) Price Sheet. Please note the Lowell Housing Authority's minimum price requirement for the first year of the five-year term of lease.

e) Completed Disclosure of Beneficial Interest in Real Property Transaction as required by Mass. Gen. Law, c.7, 40J. See **ATTACHMENT H**.

f) Completed Certificate of Non-Collusion and Tax Compliance & Form W9. See **ATTACHMENT I**.

g) A copy of the bidder's RF Exposure compliance manual or written practices, including RF measurement testing practices, safety procedures, employee training, RF exposure mitigation measures (warning signs, barriers, personal monitors, other), materials provided to premises owners, and procedures for coordination with other wireless carriers where multiple carriers have wireless facilities at locations such as building rooftops.

3.2 BID SUBMISSION

3.2.1. Bid Opening

The LHA Department of Finance and Procurement is located in the Cityview Towers on the Executive Office side of the building. Enter from 350 Moody St, Lowell, MA (the residential side of the building is at 657 Merrimack St). The bid opening is a public opening that will take place at the time and date listed on the cover page. If, at the time of the scheduled bid opening the Executive Offices are closed due to an uncontrolled event, such as fire, snow, ice, wind or building evacuation, the bid opening will be **postponed until 3:00 PM on the next normal business day.** Bids will be accepted until that date and time.

3.2.2. Bid Forms

The following forms, incorporated herein and included elsewhere in the bid documents, must be submitted with the bid:

a. Bid Price Form
b. DCAMM Disclosure of Beneficial Interest
c. Section 3 Business Preference, if applicable
d. Certificate of Non-Collusion & Tax Compliance

3.2.3. Submission Terms

i. **ORIGINAL DOCUMENTS:** One marked original bid is required. Please do not staple or permanently bind the original and cut sheets so that they may be copied or scanned.

ii. **NO CHARGES:** The LHA shall not accept charges for the requested information.

iii. **CONTENT OF CONTRACT:** The contract shall be based on this Invitation for Bids, addenda and the contractor's bid and purchase order content.

iv. **SIGNED SUBMISSIONS:** The bid shall be signed by an official authorized to bind the company and shall contain a statement that the bid is firm during the acceptance period, which expires **60 calendar days** from the bid due date. A bid must be signed as follows:

a. If bidder is an individual, by her/him personally;
b. If the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; or
c. If the bidder is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the Corporation and the Corporate Seal affixed.

v. **LHA'S RIGHTS: ACCEPTANCE, REJECTION, EXCEPTIONS, AMENDMENT, WAIVING INFORMALITIES, CONTRACT INCORPORATION, EXCLUSIONS, ETC.:** LHA reserves the right to accept or reject any and all bids, to negotiate, or to cancel or amend this IFB in part or its entirety. LHA also reserves its right to waive non-statutory or non-regulatory components and other informal (items required only by the LHA and/or unfairly limited competition) and minor informalities, if in the best interest of the LHA to do so. Bids or parts thereof will be incorporated into the final contract. Bids which are incomplete, conditional, not properly endorsed, or signed, or which are otherwise contrary to these instructions may be rejected. Bidders may be excluded from further consideration for failure to fully comply with the specifications of the IFB. General Conditions on **ATTACHMENT F** and are incorporated herein.

vi. **CHANGES TO SUBMISSION:** After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the LHA or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid is clearly evident on the face of the bid documents, the mistake will be corrected to reflect the intended correct bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident.

vii. **DEBARMENT AND LIMITED DENIAL OF PARTICIPATION (LDP):** LHA will reject any bid where its bidder is debarred or under a relevant (federal) Limited Denial of Participation (LDP)[1] by U.S. Government agencies including the Department of Housing and Urban Development (HUD) and/or the Commonwealth of Massachusetts or its political subdivisions from providing goods or services, and reserves the right to reject the bid of any bidder who has previously failed to perform any contract properly for any purchaser, or to complete on time, contracts of a similar nature, who are not in the position to perform the contract, or who has neglected the payment of bills or otherwise disregarded as obligations to clients, purchasers, subcontractors or employees.

Failure of the successful bidder to accept these and other terms will void the award. Acceptance of the bid is subject to the approval of the LHA Board of Commissioners.

3.3 ADDITIONAL INFORMATION PERTAINING TO PRICING

3.3.1. Quantities

[1] Limited Denial of Participation:
https://www5.hud.gov/Ecpcis/main/ECPCIS_List/main/ECPCIS_List.jsp

All quantities entered by the Agency herein and within the corresponding Pricing Items are for calculating purposes only. As may be further detailed herein, the Agency does not guarantee any minimum or maximum amount of work as a result of any award ensuing from this IFB, as the ensuing contract will be a Requirements Contract, in that the Agency shall retain one contractor only and shall retain the right to order from that contractor (successful bidder), on a purchase order basis, any amount of services the Agency requires.

3.4 QUESTIONS AND ADDENDA

Questions concerning this Invitation for Bids must be submitted in writing to the Chief Procurement Officer **no later than 3:00 PM on July 8, 2021**. Written responses will be sent via email notification to all bidders on record of having received/downloaded the IFB. All questions and answers are incorporated into this IFB by reference.

If changes are made to this IFB, an addendum will be issued. Notice of each Addendum will be e-mailed to all bidders on record as having received the IFB documents by requesting it from www.lhma.org/bids. If the LHA issues any addenda to this bid, each bidder shall acknowledge on the Bid Form the receipt of each addenda by addendum number and date. IFB documents can be downloaded from www.lhma.org/bids so that prospective bidders may be contacted regarding addenda notices.

3.5 CONTACT WITH THE AGENCY

It is the responsibility of the bidders to address all communication and correspondence pertaining to this IFB process to the Chief Procurement Officer, Rita V. Brousseau (email: rbrousseau@lhma.org) **only**. Bidders must not make inquiry or communication with any other Agency staff member or official (including members of the Board of Commissioners) pertaining to this IFB. Failure to abide by this requirement may be cause for the Agency to not consider a bid submittal received from any bidder who has not abided by this directive.

3.6 EQUAL EMPLOYMENT OPPORTUNITY

LHA adopted its Equal Employment Opportunity Contracting Policy (hereinafter referred to as the Policy) to ensure non-discrimination and equal employment goals for minorities and females in accordance with Presidential Executive Order 11246 as amended.

3.7 RECAP OF ATTACHMENTS

The following is a summary of the attached documents relevant to this IFB.

EXHIBIT 1: Aerial pictures of rooftops
ATTACHMENT A: HUD Table 5.1, Mandatory Contract Clauses for Small Purchases Other than Construction.
ATTACHMENT B: HUD-5369-B, Instructions to Offerors, Non-Construction
ATTACHMENT C: HUD-5369-C, Certifications and Representations of Offerors, Non-Construction Contract
ATTACHMENT D: HUD-5370-C, General Condition for Non-Construction Contracts
ATTACHMENT E: Bid Price Form (Submit with Bid)
ATTACHMENT F: Lease Agreement (Sample)

ATTACHMENT G: Certification for Business Concerns Seeking Section 3 Preference (Submit with Bid, if applicable)

ATTACHMENT H: DCAMM Disclosure of Beneficial Interest in Real Property (Submit with Bid)

ATTACHMENT I: Certificate of Non-Collusion & Tax Compliance & Form W9 (Submit with Bid)

4.0 CONTRACT AWARD

4.1 RULE FOR AWARD

The Lowell Housing Authority may award multiple leases to the responsive and responsible bidders offering the highest rent per rooftop for the first year of the lease term. Rent for all subsequent years shall be at 104% of the rent for each preceding year. The annual rent in the first year of the lease shall be a minimum of $105,000.00. Rent payments are due at the first of the month. Initial payment of two months' rent shall be made payable to the Lowell Housing Authority upon contract award. Award of any lease(s) is contingent upon annual appropriation, HUD and LHA Board approval.

If two (2) or more bids offer the same overall rent as determined above, LHA may make an award or awards based on the nature of the proposed installation, with preference given to installations that are well-camouflaged**. LHA reserves the right to reject any and all bids as determined to be in the best interests of the Authority.**

Award means the determination and selection of the bidder is responsible and responsive and whose bid represents the lowest price to be paid by the LHA including all delivery costs (FOB-Destination Prepaid). The award or awards of contemplated contracts will be made by the LHA Board of Commissioners based on a recommendation to the Executive Director. To be eligible to receive contract award, a bidder must be equipped to undertake and complete the order as specified in the IFB and contract documents.

4.2 CONTRACT CONDITIONS

The following provisions are considered mandatory conditions of any contract award made by the Agency pursuant to this IFB:

4.2.1 CONTRACT FORM

The Agency will not execute a lease on the Contractor's form-leases will only be executed on the Agency's form (please see Sample Lease **ATTACHMENT F),** and by submitting a bid the Contractor agrees to do so (please note that the Agency reserves the right to amend this form as the Agency deems necessary). However, the Agency will during the IFB process (prior to the submittal deadline) consider any contract clauses that the bidder wishes to include therein and submits in writing a request for the Agency to do so; but the failure of the Agency to include such clauses does not give the Lease the right to refuse to execute the Agency's lease form. It is the responsibility of each prospective bidder to notify the Agency, in writing, prior to submitting a bid, of any clauses that he/she is not willing to include in the final executed lease and abide by. The Agency will consider and respond to such written correspondence with a decision.

i. **HUD FORMS**

Please note that the Agency has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as part of this IFB. These forms are required terms and conditions.

4.2.2 UNAUTHORIZED SUB-CONTRACTING PROHIBITED

The Contractor shall not assign any right, nor delegate any duty for the work proposed pursuant to this IFB (including, but not limited to, selling or transferring the contract) without the prior written consent of the Contract Officer (CO). Any purported assignment of interest or delegation of duty, without the prior written consent of the CO shall be void and may result in the cancellation of the contract with the Agency, or may result in the full or partial forfeiture of funds paid to the Contractor as a result of the proposed contract; either as determined by the CO.

4.3 CONTRACT PERIOD

The initial term of the Lease shall be (5) five years commencing on the date of execution of a Lease Agreement with a successive option for renewal of (1) one additional five-year term, not to exceed a total lease period of 10 years, in accordance with the terms of the Lease Agreement and upon HUD and LHA Board approval and subject to annual appropriations. LHA shall retain sole discretion in the exercise of the option to extend the Lease Agreement term.

4.4 LICENSING AND INSURANCE REQUIREMENTS

Upon notice of award, the Lowell Housing Authority shall be named as additional insured on each certificate of insurance (COI) within five (5) business days and prior to issuing any lease. The insurance coverage shall have at a minimum:

4.4.1 WORKERS COMPENSATION INSURANCE to apply to all employees for statutory limits in compliance with applicable state and federal laws.

4.4.2 EMPLOYER'S LIABILITY INSURANCE with a minimum limit of $100,000.00 each incident.

4.4.3 COMMERICAL GENERAL LIABILITY INSURANCE shall have a minimum limit of $5,000,000.00 per occurrence combined single limit for personal injury, bodily injury, and property damage liability of $5,000,000.00 aggregate.

4.4.4 BUSINESS AUTO POLICY OR SIMILAR shall have a minimum limit of $1,000,000.00 per occurrence combined single limit for bodily injury and property damage liability. This shall include owned, hired and non-owned vehicles.

4.4.5 PROFESSIONAL LIABILITY AND/OR "ERRORS AND OMISSIONS" INSURANCE shall have a minimum limit of $2,000,000.00 per claim.

4.4.6 CITY/COUNTY/STATE BUSINESS LICENSE. If applicable, a copy of the bidder's business license allowing that entity to provide such services within the City of Lowell, Middlesex County, and/or the State of Massachusetts.

4.5 CONTRACT SERVICE STANDARDS

All work performed pursuant to this IFB must conform and comply with all applicable local, state, and federal codes, statutes, laws and regulations.

4.6 PROMPT RETURN OF CONTRACT DOCUMENTS

Any and all documents required to complete the contract, including contract signature by the successful bidder, shall be provided to the Agency within 5 business days of notification by the Agency.

EXHIBIT 1

Aerial pictures of rooftops

PROPERTIES:

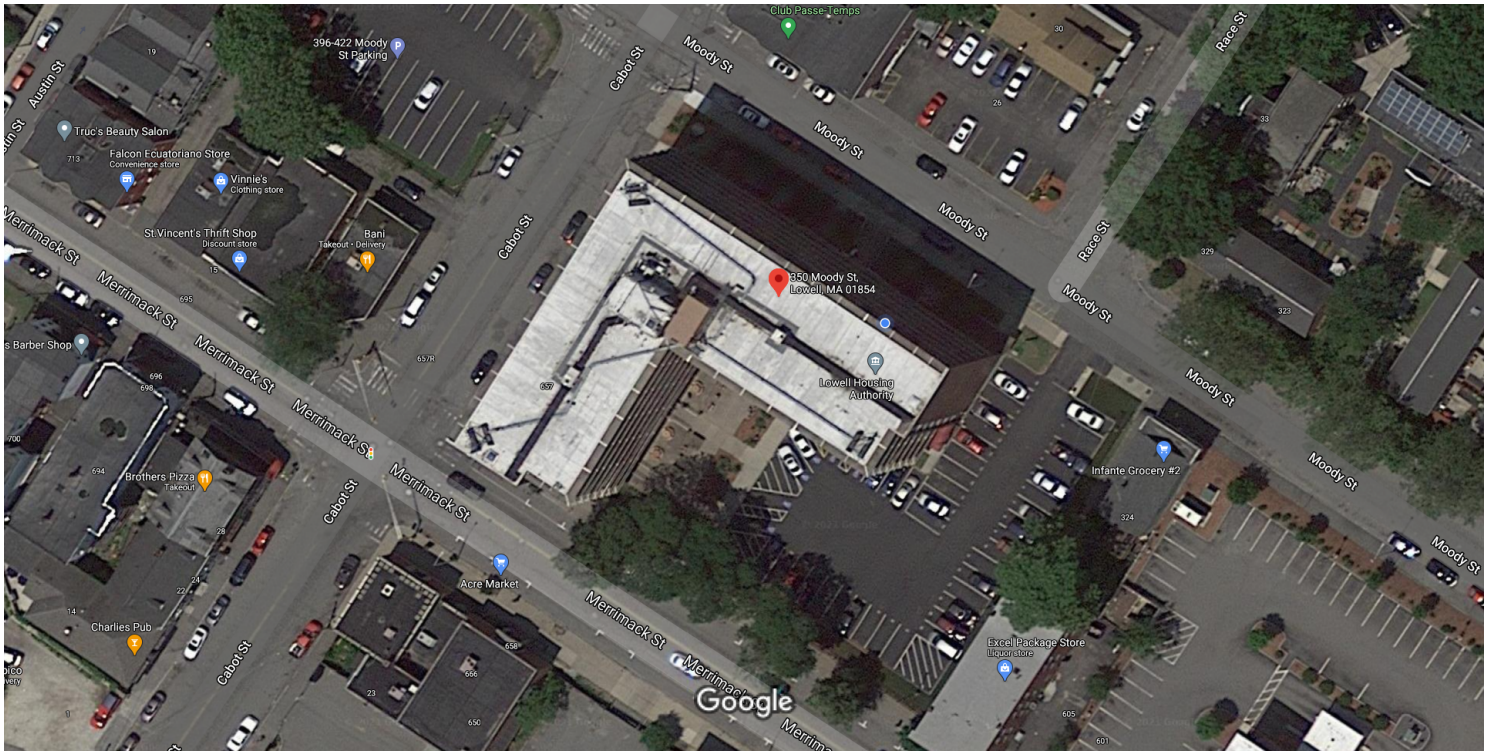
350 Moody Street

117-137 High Street

50 Summer Street

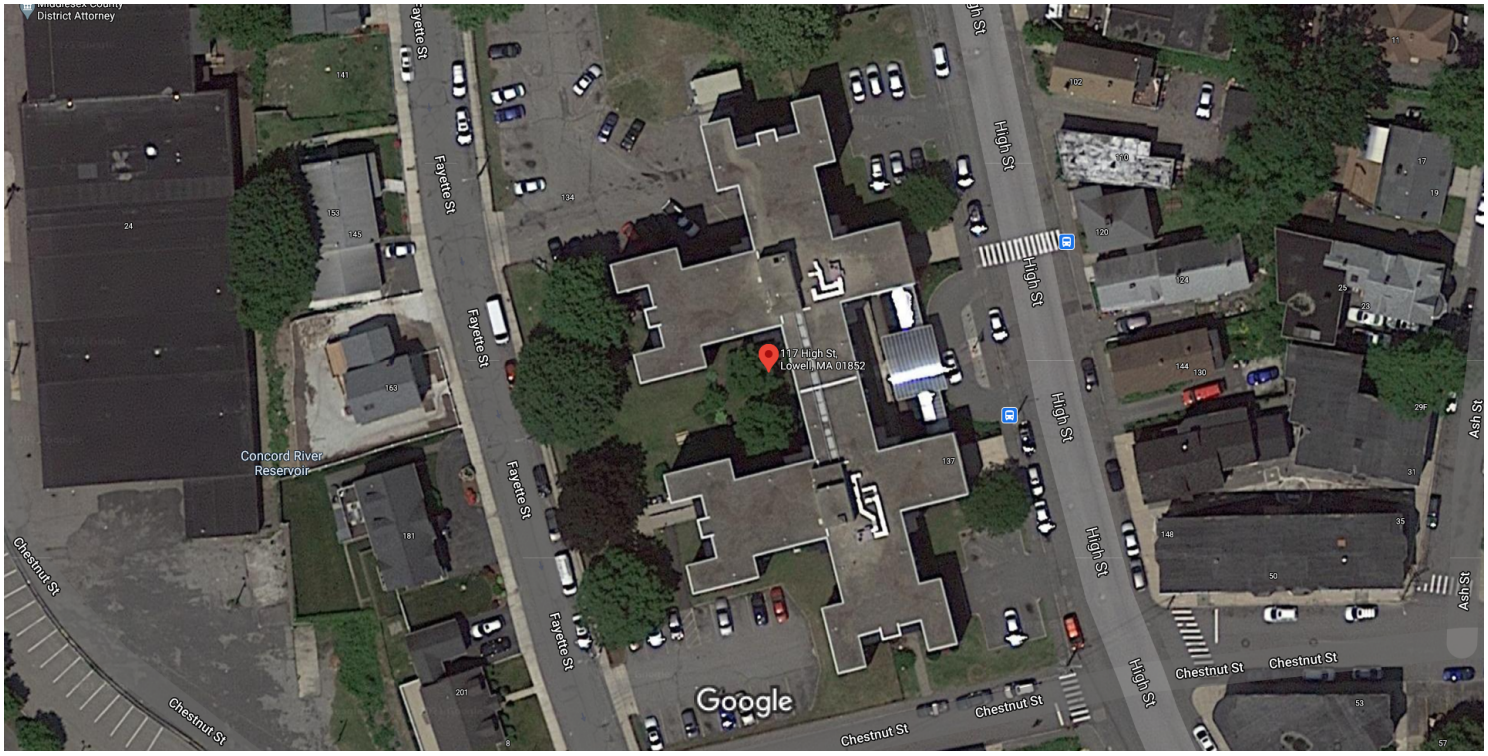
65 Summer Street

350 MOODY STREET



Map data ©2021 , Map data ©2021 Google 20 ft

Google Maps 117 High St



Map data ©2021 , Map data ©2021 20 ft

117 High St

Lowell, MA 01852
Building

Directions | Save | Nearby | Send to your phone | Share

Photos

At this place

50 Summer Street
65 Summer Street

ATTACHMENT A

HUD Table 5.1, Mandatory Contract Clauses for Small Purchases Other than Construction.

TABLE 5.1 of HUD Procurement Handbook 7460.8 REV 2

MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES OTHER THAN CONSTRUCTION

The following contract clauses are required in contracts pursuant to **24 CFR 85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.** HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

Examination and Retention of Contractor's Records. The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA 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 the Contract.

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.

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.

Termination for Cause and for Convenience (contracts of $10,000 or more).

(a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The PHA 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: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.

(b) If the termination is for the convenience of the PHA, the PHA 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 (cause/default), the PHA may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract of otherwise, and the Contractor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Contractor. In the event of termination for cause/default, the PHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

ATTACHMENT B

HUD-5369-B, Instructions to Offerors, Non-Construction

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:]

ATTACHMENT C

HUD-5369-C, Certifications and Representations of Offerors, Non-Construction Contract

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Instructions to Bidders for Contracts Public and Indian Housing Programs

Instructions to Bidders for Contracts

Public and Indian Housing Programs

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1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the *General Conditions of the Contract for Construction*). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

(h) If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

3. Amendments to Invitations for Bids

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

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

(c) Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

(1) Integrity;

(2) Compliance with public policy;

(3) Record of past performance; and

(4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

5. Late Submissions, Modifications, and Withdrawal of Bids

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

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

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

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

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

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

(g) Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

Lowell Housing Authority
Office of Finance & Procurement
Attn: Rita V. Brousseau, CPO
350 Moody Street
Lowell, MA 01854

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

(c) All protests shall be resolved in accordance with the PHA's/IHA's protest policy and procedures, copies of which are maintained at the PHA/IHA.

8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA's/IHA's available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA's/IHA's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA's/IHA's available funding. If upon the application of all deductibles, no bid is within the PHA's/IHA's available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the PHA's/IHA's written policy and procedures.

(d) The PHA/IHA may reject any and all bids, accept other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA's/IHA's written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

(f) The PHA/IHA may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

9. Bid Guarantee (applicable to construction and equipment contracts exceeding $25,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

10. Assurance of Completion

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

[ ] (1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

[ ] (2) separate performance and payment bonds, each for 50 percent or more of the contract price;

[ ] (3) a 20 percent cash escrow;

[ ] (4) a 25 percent irrevocable letter of credit; or,

[ ] (5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website **http://www.fms.treas.gov/c570/index.html**, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

11. Preconstruction Conference (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

12. Indian Preference Requirements (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act; and Indian "tribe" to mean any Indian tribe, band, group, pueblo, or community including Native villages and Native groups (including

corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

(c) If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph (c) above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is -

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement describing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

(k) The IHA [ ] does [X] does not [Contracting Officer check applicable box] maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.

ATTACHMENT D

HUD-5370-C, General Condition for Non-Construction Contracts

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and UrbanDevelopment
Office of Public and Indian Housing
Office of Labor Relations
OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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 $150,000 - use Section I**;
2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than $2,000 but not more than $150,000 - use Section II**; and
3) **Maintenance contracts** (including nonroutine maintenance), **greater than $150,000 – use Sections I and II**.

Section I - Clauses for All Non-Construction Contracts greater than $150,000

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 been titled 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 pubic 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/Seller agrees as follows:

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

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

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

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

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

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

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

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

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

17. Equal Opportunity for Workers with Disabilities

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

i.Recruitment, advertising, and job application procedures;

ii.Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

iii.Rates of pay or any other form of compensation and changes in compensation;

iv.Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

v.Leaves of absence, sick leave, or any other leave;

vi.Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];

vii.Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

viii.Activities sponsored by the [contractor/seller] including social or recreational programs; and

ix.Any other term, condition, or privilege of employment.

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

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

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

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

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

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

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

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

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

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 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) 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

(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

ATTACHMENT E

Bid Price Form (Submit with Bid)

ATTACHMENT E
FORM OF BID

The undersigned certifies that he has carefully examined the IFB, including the attached exhibits and all addenda, and it proposes and agrees that it will contract with the LHA to provide all of the services described therein in the manner and time set forth therein for the prices set forth below. The bidder certifies that the information contained in this Price Proposal is current, truthful and complete.

Includes Addenda #'s _____

Company Name: _____

1. Property: 350 Moody Street, Lowell, MA 01854

Brief description of proposed use of leased space and system configuration:

_____

_____

_____

_____

Annual Rent Payment Year One $ _____

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2. Property: 117-137 High Street, Lowell, MA 01852

Brief description of proposed use of leased space and system configuration:

_____

_____

_____

_____

Annual Rent Payment Year One $ _____

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3. Property: 50 Summer Street, Lowell, MA 01852

Brief description of proposed use of leased space and system configuration:

_____

_____

_____

_____

Annual Rent Payment Year One $ _____

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4. Property: 65 Summer Street, Lowell, MA 01852

Brief description of proposed use of leased space and system configuration:

_____

_____

_____

_____

Annual Rent Payment Year One $ _____

Date _____

_____
Name of Bidder (Business Name)

By _____
Signature

_____
Printed/Typed name & title of bid signatory

Business Address _____

Phone _____

Email Address _____

ATTACHMENT F

Lease Agreement (Sample)

LEASE OF ROOFTOP SPACE FOR TELECOMMUNICATIONS DEVICES

THIS LEASE AGREEMENT ("Lease"), dated this _____ day of _____2021 is entered by Lowell Housing Authority, a body politic and corporate organized under c.121B of the General Laws of Massachusetts having its principal office at **350 Moody Street, Lowell, MA 01854** (called "Lessor") and (Insert Name of Lessee and Type of Entity), a Massachusetts corporation having an office at (Insert Lessee's Complete Address) (called "Lessee").

BACKGROUND

Lessor owns certain property and improvements, including a "Building," located at 50 Summer Street in Lowell, Massachusetts, Middlesex County, Commonwealth of Massachusetts, (the "Property"). For Lessor's title, see the deed recorded with the Registry of Deeds. Lessee desires to use a portion of the Property for housing and operating certain communications equipment (described below) in connection with its federally licensed wireless communications business. The Property is more specifically described and/or depicted in "Schedule A" attached hereto and incorporated herein.

NOW, THEREFORE, the parties agree as follows:

1. **SCOPE OF LEASE.** The Lessor agrees to lease to Lessee the space described herein under the terms and conditions set forth herein and in strict accordance with the Invitation for Bids dated **[Insert Date], prepared** by Lessor and the information provided by Lessee in its bid (the "Bid") dated (Insert Date of Lessee's Bid). The Invitation for Bids and the Bid are incorporated herein by reference and are made a part thereof.

2. **LEASE OF PREMISES.** Lessor leases to Lessee portions of the Property consisting of:
   - **2.1** Rooftop or Tower space for the installation of Lessee's antenna systems and OPS antenna in the configuration set forth in the attached Schedule B.
   - **2.2** Access to Lessor's electrical wiring infrastructure at the Site so that Lessee can install a separate electrical meter to measure electrical usage by its transmitter/receiver base station(s);
   - **2.3** The space for a minimum of (insert number and type) phone lines to be installed by the telephone company, at the Lessee's expense, and the space to route these telephone lines from their demarcation point to Lessee's transmitter/receiver base station(s);
   - **2.4** The space to run cable, including but not limited to phone lines, electrical cable, and coaxial cable to Lessee's transmitter/receiver base station(s), its antenna systems and OPS antenna; (collectively, "Leased Premises"); together with unrestricted access to the entrance hall, stairs and corridors leading to the Leased Property, in common with Lessor and other Lessees, including, without limitation, for;
   - **2.5** Lessee's uses from the nearest public right-of-way along the Property; provided, however, that Lessee shall use good faith efforts to (i) give at least twenty-four (24) hours' notice to Lessor prior to any non-emergency entry upon the Property and (ii) minimize interference with the privacy and quiet enjoyment of the Property by any Lessee or other guest of the Lessor in connection with any such entry. Lessee shall

minimize, in connection with any entry on the Property and any work on the Leased Property, any interference, including by noise, of the residential Lessees of the Property. Any security breaches by Lessee's contractors, subcontractors, employees or agents against any such residential Lessees shall be immediately remedied by Lessee. Lessee shall notify Lessor when any Lessee installation or repair thereof are to occur so that Lessor may inspect such work. Lessee shall immediately notify Lessor of any damage to the Property or that of other Lessees of the Property occasioned by any Lessee work and shall promptly remedy any such damages, and in any event within thirty (30) days.

3. USE. Subject to compliance with all Laws (defined below), Lessee may at its own cost and expense, use the Leased Premises solely to construct, install, operate, maintain, repair, replace, protect and secure, its equipment and related equipment, cables, accessories and improvements as described in Schedule "B" (collectively "Lessee's Installations"). Lessor also grants to Lessee the right to (i) install and operate transmission cable from the equipment to the antennas, electric lines from the main feed to the equipment and telephone lines from the main telephone entry point to the equipment, and (ii) erect, construct or make Property improvements, alterations or additions ("Lessee's Changes") appropriate for Lessee's use subject to Lessor's reasonable approval, which approval shall not be unreasonably withheld or delayed so long as such are reasonably within the scope of Lessee's Installation shown on Schedule "B". Lessee's Changes may include enclosing or sheltering equipment, capping or modifying any sprinkler system in the equipment space, if permitted by Law, and adding HV AC and storing sealed batteries outside of the Leased Premises, if Lessee so requests, at locations in or on the Building mutually agreed upon by the parties, provided that no wires, cables, conduits or other connections shall be located on the exterior of the Building except as shown on Schedule B. Lessee shall pay all costs incurred by Lessor in reviewing and approving any such changes (up to a maximum per request for change of $1,000 to be evidenced by invoices and other documentation reasonably requested by Lessee), including costs for Lessor's architects and consultants promptly upon demand as additional rent hereunder. **Removal at End of Term**: Lessee shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage expected. Lessor agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of Lessee shall remain the personal property of the Lessee and Lessee shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes the Lessee to remain on the Premises after termination of this Agreement, Lessee shall pay rent at the then existing monthly rate or on the existing monthly pre-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed. All costs of Lessee's Installation including electrical connections, telephone service, cable, climate control and other items shall be borne by the Lessee. Electrical, telephone and other cable and appurtenances shall be concealed wherever feasible and where this is not feasible, all such runs, locations and methods shall be subject to the prior approval of Lessor. Lessee shall utilize so-called stealth design techniques where practical and the additional cost of such will not reduce the rent to be paid to Lessor hereunder. All damage to the Lessor's facilities caused by the Lessee or its personnel or contractors shall be repaired by the Lessee to the satisfaction of the Lessor. Lessee shall provide Lessor with

the name(s) and telephone number(s) of personnel who shall respond within two (2) hours to emergency calls from the Lessor. Such calls include, but, are not limited to complaints of disturbing noises such as bells, whistles, voices etc. The current name(s) and phone number(s) of the Lessee's emergency response are set forth in Schedule C, annexed hereto. Lessee will take all precautions which, at a minimum, conform to industry standards, to protect the Building and the Property of Lessor and the residential Lessees as well as the Lessee's Installations from potential damage caused by lightening. **Prohibited Uses:** Lessee shall not use the Premises for any illegal purpose and shall not conduct any activity at the Premises that is harmful to the health or safety of others, including, without limitation, other Lessee or occupants of the Property. Lessee shall conduct its business and control its agents, employees, invitees, licensees and visitors in such manner as not to create any nuisance or interfere with, annoy, or disturb any other Lessee or occupant of the Property. Furthermore, Lessee will not adversely impact the operation of the public housing authority, including the impact on residents and the impact on the physical & structural integrity of the property.

4. TERM. Subject to Lessee's termination right set forth in Paragraph 6 below, the Lease Term will be five (5) years, with one renewal option of five (5) years, contingent upon the availability of future appropriations. Commemoration date is the first day of the month following the day the Lessee commences installation of the equipment on the premises, (the "Commencement Date"). As used herein, "term" refers to the term hereof. If, at any time during this Lease Lessee determines the Leased Premises have become unsuitable for Lessee's use due to destruction or damage to the Building or Property or the taking thereof (by partial condemnation or otherwise) sufficient, in Lessee's reasonable judgment, to materially and adversely affect Lessee's use of Lessee's Installations (unless such destruction or damage is cured within ninety (90) days after the occurrence thereof); then, in any such case, Lessee may terminate this Lease early by notice to Lessor. Termination shall be effective thirty (30) days after notice is sent by Lessee, except that in the case of a termination due to casualty or taking permitted under the foregoing, rent shall be payable only to the date of the casualty or the transfer of property to the taker, as the case may be.

5. RENT. Commencing on the Commencement Date, Lessee will pay Lessor, by the first calendar day, monthly rent in advance of (Insert Rental Rate), prorated for any partial months at the beginning or end of the Term.

6. APPROVALS CONTINGENCY. Lessor agrees that Lessee's ability to use the Leased Premises is contingent upon Lessee's ability to obtain any and all governmental licenses, permits, approvals or other relief required for Lessee's use of the Leased Premises (called "Governmental Approvals") by that date which is twelve (12) months from the date hereof, provided that Lessee shall have the right, without obligation, to appeal any denial and the contingency date for obtaining Governmental Approvals shall be extended until such time as a final decision is rendered and is not the subject of any further appeal made or defended by Lessee. Lessee shall use its best efforts to obtain such approvals. Lessor agrees to cooperate with Lessee and, at Lessee's expense, join in any applications for Governmental Approvals. Lessor specifically authorizes Lessee to prepare, execute, and file all necessary or appropriate applications to obtain Governmental Approvals for its use under this Lease. If this Paragraph 6 is not satisfied, then Lessee shall have the right exercised by notice to Lessor, accompanied by any unpaid rent through the date of termination,

without obligation, to terminate this Lease and render it null and void from and after the date of termination. All rent accrued through the date of termination shall belong to Lessor.

7. NON-INTERFERENCE. Lessee acknowledges that this Lease does not exclude other antenna facilities on the Property (other than the Leased Premises), and Lessee agrees to reasonably cooperate with Lessor and other potential antenna facility operators as to their proposed operations not inconsistent with this Lease. If any interference is caused by Lessor or anyone now or in the future holding a Property interest from or under Lessor due to improper or unlawful operation, or any subsequent material change or addition of equipment or improvements by Lessor or any such other holder on the Property, Lessor agrees to use reasonable efforts not requiring expenditure of money to eliminate same in a prompt and timely manner. If such interference, or interference by Lessee's Installations with then existing communications equipment, cannot be eliminated within a reasonable length of time, but not to exceed thirty (30) days after notice thereof, Lessor or Lessee shall cause the interference to cease except for brief tests necessary for the elimination of the interference. Lessor shall incorporate into any subsequent or contemporaneous leases or agreements with Lessor for telecommunications transmission and receiving equipment on the Property or for the placement of other structures or equipment on the roof of the Property a provision that the other party shall not interfere with Lessee's operations on the Property.

8. INTERFERENCE. Lessee agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of the Lessor or other Lessees/lessees of the Property which existed on the Property prior to the date this agreement is executed by the Parties. In the event any of the Lessee's equipment causes such interference, including without limitation after-installed equipment, and after the Lessor has notified Lessee in writing of such interference, Lessee will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at Lessee's option, powering down such equipment and later powering up such equipment for intermittent testing. Lessor agrees that Lessee and/or any other Lessees of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of the Lessee. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

9. INSURANCE/LIABILITY. (a) Lessee shall carry during the Lease term, at its own Cost and expense, the following insurance: (i) "All Risk" property insurance for Lessee's Installation replacement cost; and (ii) comprehensive general liability insurance with a commercial general liability endorsement having a minimum limit of liability of $1,000,000 for injury or death arising out of one occurrence and $1,000,000 for damage to property from any one occurrence and excess/umbrella coverage of $2,000,000. **(b)** Lessee shall name Lessor as an additional insured under its liability policy and require its insurance company to endeavor to give at least thirty (30) days' written notice of termination or cancellation of the policy to Lessor. Such endorsement shall be delivered to Lessor within thirty (30) days from the execution of this Lease and before the expiration of any term thereof from a reputable, licensed insurance company authorized to write

that type of insurance under the laws of the Commonwealth of Massachusetts. **(c)** Lessee shall promptly reimburse Lessor as additional rent hereunder upon presentation of appropriate written evidence thereof any increased insurance premium of Lessor occasioned by Lessee's Installations or Lessee use of the property.

10. WARRANTIES, Lessor represents and warrants that (a) Lessor:(i) solely owns (or controls by lease or license) the Property as a legal lot in fee simple, unencumbered by any liens, restrictions, mortgages (subject to Paragraph 16 below), covenants, conditions, easements, leases, proffers, commitments, agreements of record or not of record, which would adversely affect Lessee's use and enjoyment of the Leased Premises under this Lease; (ii) is duly organized/formed, validly existing and in good standing and has all rights, power and authority to make this Lease and bind itself thereto through the party set forth as signatory of Lessor set forth below; (iii) has not dealt with, nor is any brokerage commission due to any broker in connection with this Lease, Lessee hereby representing that it has not dealt with any broker and that no brokerage commission is due to any broker in connection with this transaction (except for a commission to NONE which Commission(s) Lessees agrees to be solely responsible for and to pay forthwith); and (iv) grants Lessee, unless Lessee defaults hereunder, actual and quiet and peaceful use, enjoyment and possession of the Leased Premises during the term as herein contemplated.

11. ACCESS TO LEASED PREMISES. Lessor shall be permitted access to the Leased Premises (i) for emergencies without prior notice to Lessee, so long as Lessee is notified as soon thereafter as reasonably practicable; and (ii) otherwise with reasonable prior notice to Lessee to make necessary repairs; in all cases provided that Lessee's equipment technology and proprietary interests remain secure and Lessee's operation is not adversely affected.

12. MAINTENANCE AND REPAIRS; UTILITIES. Timing for Installation and Maintenance. **(a)** Lessee shall perform all repairs necessary to keep Lessee's Installations located on or about the Leased Premises in good condition, reasonable wear and tear and damage from the elements excepted. Lessor shall maintain and repair the Property and access thereto, other than Lessee's Installations, and only to the extent failure to do so adversely affects Lessee, in good and Lesseeable condition and repair, reasonable wear and tear and damage from the elements excepted. No work shall be done in the Leased Premises by Lessor without prior notification to Lessee. Except for an emergency when notice thereof shall be given to the Lessor as soon as practicable, all installation and repair work by the Lessee shall be performed during the hours of 8 A.M. to 4 P.M**.** on business days. Lessee shall coordinate with Lessor's representative so that such representative may observe any such installation or maintenance to avoid any dispute as to the cause of any damage to the Building. **(b)** Lessee, at its sole expense, shall arrange for its own metered electrical supply from the local utility company and shall pay for all electric and other utility charges consumed by Lessee. During the application period for electric service from the local utility company, Lessee shall have the right to use temporarily Lessor's electricity for installation of Lessee's equipment, provided that Lessee shall supply proper adapters and extension cords, and provided that where heavy duty electric equipment drawing current in excess of 15 amperes is involved, the Lessee shall provide temporary service to supply the power. Lessee hereby agrees that Lessor shall have no obligation to furnish electricity or any other utility to the Property and shall not be liable for any interruption of electricity or other utility service to the Property except to the extent caused by any intentional misconduct of Lessor. Notwithstanding the

foregoing, Lessor and Lessee further agree that Lessee shall not operate Lessee's equipment until a separate electrical meter for Lessee's usage is installed. **(c)** In the event Lessor determines that modernization work or other work, including roof work, is needed at the Property, which work will interfere with Lessee's use of the Leased Premises, Lessor may, upon at least thirty (30) days' written notice to Lessee, suspend this Lease and all rent payable hereunder for the period of such modernization or work but not in excess of ninety (90) days. In the event Lessor decides to cease its residential operation at the Property for any reason, it may terminate this Lease and Lessee's rights hereunder, upon ninety (90) days' written notice to Lessee.

13. DEFAULT AND RIGHT TO CURE. The following shall be deemed a default by Lessee and a breach of this Lease: (a) Nonpayment of rent or other Lessee monetary obligations due as specified hereunder, if remaining unpaid more than five (5) days after the due date thereof, or (b) Lessee's failure to perform any other agreement, representation or warranty under this Lease within thirty (30) days after receipt of such notice from Lessor reasonably specifying the failure provided, however, that if such failure cannot reasonably be cured within such initial thirty (30) day period, such failure shall not be deemed to exist if Lessee in fact shall honestly commence to rectify the same within such thirty (30) day period and provided such efforts shall be prosecuted to completion with reasonable diligence, but in all events within not more than an additional forty-five (45) day period. In the event of any default by Lessee hereunder, Lessor may, to the extent permitted by law, immediately at any time thereafter and without demand or notice, terminate this Lease and enter into and upon the Leased Premises, or any part thereof in the same of the whole, and repossess the same as of Lessor's former estate, and expel Lessee and those claiming through or under Lessee and remove its effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. No termination or repossession provided for in this paragraph shall relieve Lessee of its liabilities and obligations under this Lease, all of which shall survive any such termination or repossession. In the event of any such termination or repossession, Lessee shall pay to Lessor either (i) in advance on the first day of each month, for what would have been the entire balance of the term hereof, one-twelfth (1/12) (and a pro-rata portion thereof for any fraction of a month) of the annual rent, additional rent and all other amounts for which Lessee is obligated hereunder, less, in each case, the actual net amount received by Lessor by reason of any re letting of the Leased premises after deducting Lessor's reasonable expenses in connection with such reletting, including, without limitation, removal, storage and repair costs and reasonable brokers' and attorneys' fees, or (ii) upon demand and at the option of Lessor exercisable by Lessor's giving notice to Lessee within thirty (30) days after any such termination, as liquidated damages, an amount equal to one year's rent. Notwithstanding the foregoing, Lessor shall have no obligation to relet the Leased Premises or otherwise mitigate any damages owed by Lessee to Lessor hereunder.

14. ASSIGNMENT/SUBLEASE. Lessor may assign this Lease, provided said assignee will assume, recognize and become responsible to Lessee for, the performance of all the terms and conditions to be performed by Lessor under this Lease. Upon not less than fifteen (15) days prior written notice (to the extent not prohibited by securities laws), Lessor agrees that Lessee may assign or sublet this Lease in whole or part to any person or business entity which is licensed by the FCC to operate wireless communications, is a parent, subsidiary or affiliate of Lessee, controls or is controlled by or under common control with Lessee, is merged or consolidated with Lessee or purchases a majority or controlling interest in the ownership or assets of Lessee. Upon

notification to Lessor by Lessee of any such assignment, Lessee shall be relieved of all future performance, liabilities and obligations under this Lease provided that (i) Lessee delivers written evidence satisfactory to Lessor in its reasonable judgment that such assignee has a net worth (determined in accordance with generally accepted accounting principles) of not less than $10 million, and (ii) such assignee has agreed, pursuant to a written instrument delivered to Lessor by Lessee, to be liable for and bound by all future performance, liabilities and obligations under this Lease. Lessee may not otherwise assign or sublet this Lease without Lessor's consent, not to be unreasonably withheld or delayed. Additionally, Lessee may mortgage, assign and/or grant a security interest in this Lease and Lessee's equipment shown in Schedule B, to Lessee's mortgagees or holders of security interests, including their successors or assigns (hereinafter collectively referred to as "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Lessor shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Lessor agrees to notify Lessee and Lessee's Mortgagees (if notified of any such Mortgagees) simultaneously of any default by Lessee and to give Mortgagees the same right to cure any default as Lessee except that the cure period for any Mortgagee shall not be less than ten (10) days after receipt of the default notice.

15. NOTICES. Unless otherwise provided herein, any notice or demand required or permitted to be given hereunder shall be given in writing by hand delivery, first class certified or registered mail, return receipt requested, or by recognized overnight mail, in a sealed envelope, postage prepaid, to be effective when properly sent and received, refused or returned marked undeliverable. Notice shall be addressed to the parties at the addresses set forth above as to Lessee Attn: (Insert name of officer to receive notice); and as to Lessor Attn: (Insert name of officer to receive notice). Either party hereto may change the place for the giving of notice to it by like written notice to the other as provided herein.

16. SEVERABILITY. If any term or condition of this Lease be held unenforceable, the remaining terms and conditions shall remain binding upon the parties as though said unenforceable provision were not contained herein.

17. SUBORDINATION. Tenant hereby subordinates the Lease and all of its rights thereunder to the ACC and DOT of the property and all of Lender’s rights thereunder, including any and all renewals, modifications and extensions thereof. At Lessor's option, this Lease shall be subordinate to any mortgage, or any modification, extension, or renewal of any such mortgage, entered by Lessor, from time to time, as may encumber all or part of the Property. This subordination shall be automatic and self- operative without further consent from Lessee. Notwithstanding the foregoing, Lessee hereby agrees to execute commercially customary subordination agreements with Lessor's mortgagee(s) within thirty (30) days after any written request, therefore.

18. AMENDMENT; WAIVER. No Lease revision shall be valid unless made in writing and signed by Lessee and an authorized agent of the Lessor or any successor thereto. Revisions or amendments to this lease require HUD approval. No provision may be waived except in a writing signed by the party waiving the right.

19. SHORT FORM LEASE. Neither this Lease nor any Short Form Lease or Memorandum

of Lease thereof shall be recorded by either party without the written consent of the other party.

20. BIND AND BENEFIT. The Lease terms and conditions contained shall run with the Property and inure to the benefit of and be binding upon Lessor and Lessee and each of their respective heirs, executors and administrators, successors and permitted assigns.

21. ENTIRE AGREEMENT. This Lease and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

22. GOVERNING LAW. This Lease shall be governed by the laws of the Commonwealth of Massachusetts.

23. INTERPRETATION. Unless otherwise specified, the following rules of construction and interpretation apply: (a) Captions are for convenient reference only and in no way define or limit the construction of the terms and conditions hereof; (b) use of the term "including" shall be interpreted to mean "including but not limited to," use of the terms "termination" or "expiration" are interchangeable; use of the terms "will" and "shall" are interchangeable; (c) except if otherwise expressly stated, whenever a party's approval or consent is required under this Lease, such consent shall not be unreasonably withheld or delayed; (d) reference to a default shall take into consideration any applicable notice, grace and cure periods; and (e) exhibits and schedules are an integral part of this Lease.

24. ESTOPPEL. (a) Either party shall, at any time upon fifteen (15) days' prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, (ii) acknowledging that there are not, to such party's knowledge any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed and (iii) certifying as to such other matters as the other party may reasonably request in connection with this Lease. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Leased Premises or Lessee Installations. Failure to timely deliver such a statement shall be conclusive as a self-operative statement from the party from whom requested that (i) this Lease is in full force and effect (without modification except as may be properly represented by the requesting party); (ii) there are no uncured defaults in the requesting party's performance, and (iii) no more than one month's rent has been paid in advance.

25. LESSEE'S INDEMNITY. Lessee shall indemnify and hold Lessor and any mortgagee of the Property harmless, and defend Lessor and any such mortgagee (with counsel reasonably acceptable to Lessor or such mortgagee, as the case may be) from and against any claim, liability or loss resulting from injury or damage to persons or property to the extent caused, in whole or in part, by the use and occupancy of the Property by Lessee, its contractors, subcontractors, servants or agents, except to the extent such claims, liabilities or damages may be due to or caused by the gross negligence or wrongful acts of Lessor, its servants or agents.

It is acknowledged and agreed that the Lessor has no authority to provide guarantees, indemnifications, rights of set off, or other pledges involving the assets of any Public Housing Project (as the term 'Project' is defined in the ACC between PHA and HUD (the "Public Housing Project") or other assets of the PHA, including any Housing Choice Voucher ("HCV") related assets of the PHA. Accordingly, except as approved by HUD in writing, it is acknowledged that there is no legal right of recourse against: (1) any Public Housing Project of Lessor; (2) any operating receipts (as the term "operating receipts" is defined in ACC), HCV receipts or Capital or Operating Funds of Lessor; (3) any public housing operating reserve of Lessor reflected in Lessor's annual operating budget and required under the ACC, or (4) any other asset of the Lessor related to the 1937 Act. Should any assets of the Lessor be identified at a later date as meeting the criteria set forth above, any guarantees, indemnifications, right of set off, or other pledges involving those assets will be deemed null, void, and unenforceable.

HUD is not a Guarantor of the LESSOR or liable for the LESSOR's or LESSEE's actions.

To the extent that any of the foregoing is in conflict with the requirements of the United States Housing Act of 1937, as amended, federal regulations, the Annual Contributions Contract, as amended, and other HUD requirements, the HUD requirements shall control and govern in such instances of conflict.

In the event that HUD approves the termination of the ACC at the Property, either under Section 18 of the United States Housing Act of 1937 or the Rental Assistance Demonstration ("RAD") program, or if HUD determines the Lease does not comply with public housing requirements, including, but not limited to, disposition requirements under 24 CFR Part 970, then the LESSOR shall have the right to terminate this Lease.

26. TAXES. As the Property is exempt from real estate taxes but Lessor is obligated to make Payments in Lieu of Taxes pursuant to Mass. General Laws, c. 121B, § 16, Lessee shall pay as additional rent any real estate taxes levied against the Property and allocable to the improvements constructed thereon by Lessee and any personal property taxes levied against the Property as a result of Lessee's improvements or this Lease, including any increase in the so-called Payments in Lieu of Taxes arising out of the improvements constructed thereon by Lessee or any separate or additional assessment to Lessor or Lessee of this leasehold. Payment of such taxes shall be made within ten (10) days after demand by Lessor. Such demand shall be accompanied by a copy of the tax bill. Lessee shall be entitled to appeal any such increase payable by Lessee at Lessee's sole cost and expense.

27. LIMITATION OF LESSOR'S LIABILITY. Lessee's recourse against Lessor and Lessor's liability for the collection of any judgment or other judicial process requiring the payment of money by Lessor in the event of any breach of the covenants, agreements or obligations of Lessor hereunder, shall be limited to the maximum amount recoverable under the Massachusetts Torts Claims Act, c. 258 of the General Laws.

28. OVERLOADING. Lessee covenants not to place any property within the Property as to

exceed the load bearing capacity of the Building, not to injure, deface or otherwise harm the Property, nor commit any nuisance, or permit the emission of any objectionable noise or odor, nor make, allow or suffer any waste,; not to dump, flush or in any way introduce any Hazardous Waste into the septic, sewage or other waste disposal system serving the Property; not to generate, store, use or dispose of Hazardous Waste in or on the Property, or dispose of Hazardous Waste from the Property to any other location; nor make any use of the Property which is contrary to any law or ordinance which will invalidate any of Lessor's insurance. Lessee shall save Lessor and any mortgagee of the Property harmless and indemnify from all injury, loss, claims, damages or liabilities arising from Lessee's use of the Property in violation of any federal, state, local or other laws relating to pollution or protection of the environment.

29. CONDEMNATION OR CASUALTY, DESTRUCTION. FIRE AND OTHER CASUALTY. (a) If the Leased Premises or any part thereof, or any portion of the Property to materially interfere with Lessee's use of the Leased Premises, shall be damaged by fire or other casualty, Lessee shall give immediate notice thereof to Lessor and this Lease shall continue in full force and effect except as hereinafter set forth. If the Leased Premises is partially damaged or rendered partially unusable by fire or other casualty, the damages thereto shall be repaired by, and at the expense of, Lessor and the rent, until such repair shall be substantially completed, shall be apportioned from the day following the casualty according to the part of the Leased Premises which is usable. If the Leased Premises is totally damaged or rendered wholly unusable by fire or other casualty, then the rent shall be proportionately paid up to the time of the casualty and thenceforth shall cease until the date when the Leased Premises shall have been repaired and restored by Lessor, subject to Lessor's right to elect not to restore the same as hereinafter provided. Notwithstanding the provisions of this Paragraph 28(a) or any other provisions of this Lease, (i) Lessee shall be responsible for insuring (or electing not to insure) all of its personal property, fixtures and equipment, and (ii) Lessor shall have no obligation to pay for, repair, replace, rewire or otherwise restore any of Lessee's personal property, fixtures or equipment in the event of any fire or other casualty or condemnation, all of which repairs, replacement, rewiring and other restoration shall be sole obligation of Lessee. **(b)** If, whether or not the Leased Premises is damaged in whole or in part, the Building owned by Lessor shall be so damaged that Lessor shall decide not to rebuild it, then Lessor may elect to terminate this Lease by written notice to Lessee given within sixty (60) days after such fire or casualty specifying a date for the expiration of the Lease, which date shall not be less than sixty (60) days or more than ninety (90) days after the giving of such notice and, upon the date specified in such notice, the Term of this Lease shall expire as fully and completely as if such date were the date set forth. (**c)** for the termination of this Lease and Lessee shall forthwith quit, surrender and vacate the Leased Premises without Prejudice, however, to either party's rights and remedies against the other under the Lease provisions in effect prior to such termination, and any rent owing shall be paid up to such date and any payments of rent made by Lessee which were on account of any period subsequent to such date shall be returned to Lessee. Unless Lessor shall serve a termination notice as provided for herein, Lessor shall make the repairs and restorations under the conditions of Subparagraph (a) hereof, with all reasonable expedition and with the least interruption of Lessee's business as practicable. After any such casualty affecting the Leased Premises, Lessee shall cooperate with Lessor's restoration by removing from the Leased Premises, as promptly as reasonably possible, all of Lessee's salvageable trade fixtures and equipment. Lessee's liability for rent shall resume ten (10) days after written notice from Lessor that restoration of the Leased Premises is substantially completed in

accordance with Lessee's Plans. In the event of a taking, all rights to damages to the Building and the Property shall belong solely to the Lessor.

FORCE MAJEURE. Neither the Lessee or Lessor shall be liable for any unanticipated matter beyond its reasonable control, such as acts of God, riot, strike, insurrection, terrorist acts and/or declared or undeclared acts of war.

30. HEALTH OR ENVIRONMENTAL RISK. Anything to the contrary contained herein notwithstanding, if, during the Lease Term, Lessor in its sole and absolute judgment, believes that Lessee's use of the Leased Premises poses a human health or environmental hazard that cannot be remediated or has not been remediated within thirty (30) days after Lessee has been notified thereof, then (i) Lessee shall immediately cease all operations on the Site; (ii) the Lease shall terminate on thirty (30) days' prior notice to Lessee; and (iii) Lessee shall remove all equipment in the Site installed by Lessee within thirty (30) days thereafter.

31. LESSEE'S WORK. Lessee covenants to procure at Lessee's sole expense all necessary permits and licenses before undertaking any alterations to the Property; to do all such work in a good and workmanlike manner employing materials of good quality and so as to conform with all applicable zoning, building, fire, health and other codes, regulations, ordinances, laws and insurance policies maintained with respect to the Property; to pay promptly when due the entire cost of any work on the Property undertaken by Lessee so that the Property shall at all times be free of liens for labor and material; to employ for any such work contractors reasonably approved by Lessor; to require such contractors employed by Lessee and their subcontractors to carry workmen's compensation insurance in accordance with statutory requirements and comprehensive public liability insurance in amounts approved by Lessor covering such contractors on or about the Property and to submit certificates evidencing such coverage to Lessor upon Lessor's request to save Lessor and any mortgagee of the Property harmless and indemnify from all injury, loss, claims or damage to any person or property occasioned by or growing out of such work.

32. OTHER EASEMENTS; LEASES. Lessor shall have the right to grant liens, restrictions, mortgages, covenants, conditions, easements, leases, proffers, commitments, agreements of record or not of record, and other instruments granting rights to third parties to use and occupy all or any portion of the Property; provided, however, that no such instrument or agreement shall result in any material interference with the use, installation, operation, maintenance, repair or replacement of Lessee's Installation or Lessee's use and quiet enjoyment of the Leased Premises.

33. MARKING AND LIGHTING REQUIREMENTS. Lessee acknowledges that it shall be responsible at its sole cost and expense, for compliance with all tower or building marking and lighting requirements which may be required by the Federal Aviation Administration ("FAA") or the Federal Communications Commission ("FCC") and which may be required due to Lessee's use of the Leased Premises. Lessee shall indemnify and hold harmless Lessor from any fines or other liabilities caused by Lessee's failure to comply with such requirements. Further, should Lessor be cited by either the FCC or FAA or in the event any claims are brought against Lessor because the Property is not in compliance, Lessee shall indemnify Lessor for all costs, liabilities, damages and expenses, including reasonable attorneys' fees. Further, if Lessee does not cure the conditions of

noncompliance within the time frame allowed by the citing agency, Lessor may terminate this Lease immediately upon thirty (30) days written notice to Lessee without any further liability.

34. COUNTERPARTS. Shall be deemed an original. This Lease may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the date set forth below that their lease is approved by the Department.

LESSEE	**LESSOR**
_____	_____
Signature	Signature
_____	_____
Name and Title	Name and Title
Date: _____	Date:_____

US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

_____
Signature

Date: _____

ADDITIONAL ATTACHMENTS TO THIS LEASE

Schedule A – Description of Property
Schedule B – Listing of Tenant's Equipment
Schedule C – Listing of Lessor's and Lessee's 24-hour emergency contact numbers

ATTACHMENT G

Certification for Business Concerns Seeking Section 3 Preference (Submit with bid if applicable)

ATTACHMENT G
CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE

Your business is eligible to apply for preference as a Section 3 Business if, in addition to meeting all applicable state and local regulations, it self-certifies that it meets one or more of the following criteria (you must check at least one):

☐ A. Fifty-one percent or more of the business is owned by Section 3 Residents:

☐ B. Thirty percent or more of the business' fulltime employees are Section 3 Residents; or

☐ C. The business can provide evidence of a firm commitment to subcontract a minimum of 25 percent of the total dollar amount of contracts to a business that meets the criteria listed in (a) and/or (b) above.

Section 3 Residents Are:

A. Residents of Public and Indian Housing; or
B. Residents of the Metropolitan Area or Non-Metropolitan County that Meet the Definition of Low-and-Very Low-Income.

To search the database for self-certified Section 3 businesses, register your business for inclusion, or for more information on the Business Registry, please visit http://www.hud.gov/Sec3Biz.

We encourage all potential contractors to register as a Section 3 business. Additional information on the requirements of Section 3, can be found at http://www.hud.gov/section3.

Note: Section 3 businesses are not entitled to receive contracts simply by being listed in HUD's Section 3 Business Registry database. Eligible businesses need to demonstrate that they are responsible and have the ability to perform successfully under the terms and conditions of proposed contracts. Section 3 requirements at 24 CFR 135, then provides preference for contracts and subcontracts to these firms-but not a guarantee.

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPBILITY

Name of Business _____

Address of Business _____

Type of Business: ☐ Corporation ☐ Partnership
☐ Sole Proprietorship ☐ Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:
- ☐ Copy of resident lease
- ☐ Copy of evidence of participation in a public assistance program
- ☐ Copy of receipt of public assistance
- ☐ Other evidence

For business entity as applicable:
- ☐ Copy of Articles of Incorporation
- ☐ Assumed Business Name Certificate
- ☐ List of owners/stockholders and % ownership of each
- ☐ Organization chart with names and titles and brief function statement
- ☐ Certificate of Good Standing
- ☐ Partnership Agreement
- ☐ Corporation Annual Report
- ☐ Latest Board minutes appointing officers
- ☐ Additional documentation

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:
- ☐ List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:
- ☐ List of all current full-time employees
- ☐ PHA/IHA Residential lease less than 3 years from day of employment
- ☐ List of employees claiming Section 3 status
- ☐ Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:
- ☐ Current financial statement
- ☐ Statement of ability to comply with public policy
- ☐ List of owned equipment
- ☐ List of all contracts for the past two years

_____ (Corporate Seal)
Authorizing Name and Signature

Attested by:_____

ATTACHMENT H

DCAMM Disclosure of Beneficial Interest in Real Property (Submit with Bid)

DISCLOSURE STATEMENT FOR TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)

INSTRUCTION SHEET

NOTE: The Division of Capital Asset Management and Maintenance (DCAMM) shall have no responsibility for insuring that the Disclosure Statement has been properly completed as required by law. Acceptance by DCAMM of a Disclosure Statement for filing does not constitute DCAMM's approval of this Disclosure Statement or the information contained therein. Please carefully read M.G.L. c. 7C, s. 38 which is reprinted in Section 8 of this Disclosure Statement.

Section (1): Identify the real property, including its street address, and city or town. If there is no street address then identify the property in some other manner such as the nearest cross street and its tax assessors' parcel number.

Section (2): Identify the type of transaction to which this Disclosure Statement pertains --such as a sale, purchase, lease, etc.

Section (3): Insert the exact legal name of the Public Agency participating in this Transaction with the Disclosing Party. The Public Agency may be a Department of the Commonwealth of Massachusetts, or some other public entity. Please do not abbreviate.

Section (4): Insert the exact legal name of the Disclosing Party. Indicate whether the Disclosing Party is an individual, tenants in common, tenants by the entirety, corporation, general partnership, limited partnership, LLC, or other entity. If the Disclosing Party is the trustees of a trust then identify the trustees by name, indicate that they are trustees, and add the name of the trust.

Section (5): Indicate the role of the Disclosing Party in the transaction by checking one of the blanks. If the Disclosing Party's role in the transaction is not covered by one of the listed roles then describe the role in words.

Section (6): List the names and addresses of every legal entity and every natural person that has or will have a direct **or** indirect beneficial interest in the real property. The only exceptions are those stated in the first paragraph of the statute that is reprinted in Section 8 of this Disclosure Statement. If the Disclosing Party is another public entity such as a city or town, insert "inhabitants of the (name of public entity)." If the Disclosing Party is a non-profit with no individual persons having any beneficial interest then indicate the purpose or type of the non-profit entity. If additional space is needed, please attach a separate sheet and incorporate it by reference into Section 6.

Section (7): Check "NONE" in the box if none of the persons mentioned in Section 6 is employed by DCAMM or an official elected to public office in the Commonwealth of Massachusetts. Otherwise list any parties disclosed in Section 6 that are employees of DCAMM or an official elected to public office.

Section (8): The individual signing this statement on behalf of the Disclosing Party acknowledges that he/she has read the included provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts.

Section (9): Make sure that this Disclosure Statement is signed by all required parties. If the Disclosing Party is a corporation, please make sure that this Disclosure Statement is signed by a duly authorized officer of the corporation as required by the statute reprinted in Section 8 of this Disclosure Statement.

DCAMM's acceptance of a statement for filing does not signify any opinion by DCAMM that the statement complies with applicable law.

This completed and signed Disclosure Statement should be mailed or otherwise delivered to:

Deputy Commissioner for Real Estate

Division of Capital Asset Management and Maintenance

One Ashburton Place, 15th Floor, Boston, MA 02108

DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) REAL PROPERTY:

(2) TYPE OF TRANSACTION, AGEEMENT, or DOCUMENT:

(3) PUBLIC AGENCY PARTICIPATING in TRANSACTION:

(4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY:

(5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____Lessor/Landlord _____Lessee/Tenant

_____Seller/Grantor _____Buyer/Grantee

_____Other (Please describe): _____

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME	RESIDENCE

(7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (Check "NONE" if NONE):

☐ NONE

NAME:	POSITION:

DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)

(8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

(9) This Disclosure Statement is hereby signed under penalties of perjury.

_____
PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

_____
AUTHORIZED SIGNATURE of DISCLOSING PARTY DATE (MM / DD / YYYY)

_____
PRINT NAME & TITLE of AUTHORIZED SIGNER

ATTACHMENT I

Certificate of Non-Collusion & Tax Compliance & Form W9 (Submit with Bid)

REQUIRED FORMS

CERTIFICATE OF NON-COLLUSION

Pursuant to M.G.L. Ch. 30B, §10, the undersigned hereby certifies, under penalties of perjury, that this bid or proposal has been made and submitted in good faith and without fraud or collusion with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

_____ _____

Signature of person submitting contract/bid Date

_____

Name of Business

CERTIFICATE OF TAX COMPLIANCE

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief that I, or the company for which I am completing this bid, is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

_____ _____

Federal Identification Number or SS # Signature of Individual or Corporate Name

_____

Corporate Officer Signature

(If a corporation, attach a certificate of corporate vote authorizing the signatory to execute this document.)

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

► **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

		–							

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	**Signature of U.S. person** ►	**Date** ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting,* later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the instructions for Part II for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code,* later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships,* earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code,* later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt payees 1 through 5[2]
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester,* later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.SSA.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/Businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code,* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account[1]
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor[2]
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee[1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner[1]
6. Sole proprietorship or disregarded entity owned by an individual	The owner[3]
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity[4]
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships,* earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov.* You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at *spam@uce.gov* or report them at *www.ftc.gov/complaint.* You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit *www.irs.gov/IdentityTheft* to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.